Reception #: 1105732 Record Date: 12/11/2015 11:24 AM
# of Page(s): 52 Rec Fee: $0.00 Doc Fee: $0.00
Tiffany Lee Parker, La Plata County Clerk mlk Trans # 47279

52

BOARD OF COUNTY COMMISSIONERS
COUNTY OF LA PLATA, STATE OF COLORADO

ORDINANCE NO. O-2015-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO ADOPTING CODE AMENDMENTS TO CHAPTER 7 OF THE LA PLATA COUNTY CODE REGULATING AND LICENSING MEDICAL MARIJUANA BUSINESSES AND RETAIL MARIJUANA ESTABLISHMENTS

WHEREAS, the Board of County Commissioners has the authority to exercise all County powers for the unincorporated areas of La Plata County pursuant to C.R.S. § 30-11-103; and

WHEREAS, as authorized by Article XVIII, § 14 of the Colorado Constitution ("Amendment 20"), the State Legislature adopted the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq*., which authorizes local governments to regulate the cultivation, manufacture, distribution and sale of medical marijuana and promulgate a process for the licensing of medical marijuana businesses; and

WHEREAS, Article XVIII, § 16 of the Colorado Constitution ("Amendment 64") provides that local governments may enact ordinances or regulations governing the time, place, manner and number of retail marijuana establishments; and

WHEREAS, as authorized by Amendment 64, the State Legislature enacted the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et seq.*, which authorizes local governments to promulgate a process for the licensing of retail marijuana establishments; and

WHEREAS, the Board of County Commissioners has the authority to designate personnel, by ordinance duly adopted, to enforce county ordinances by issuing citations or summonses and complaints pursuant to C.R.S. § 30-15-402.5; and

WHEREAS, the Board of County Commissioners has the authority to impose fines for violation of any County ordinance pursuant to C.R.S. § 30-15-402(1); and

WHEREAS, the County's current marijuana licensing regulations were adopted by the Board of County Commissioners on June 10, 2014, by Ordinance O-2014-02, which, in part, authorizes the licensing of medical marijuana businesses and retail marijuana establishments in unincorporated La Plata County, except for within the three mile buffer surrounding the incorporated areas of the Town of Ignacio and the Town of Bayfield; establishes specific standards and procedures for such local licensing; and, prescribes the manner in which medical marijuana businesses and retail marijuana establishments can be conducted in the County to protect the health, safety and welfare of the residents and visitors to La Plata County; and

WHEREAS, amendments to the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, as well as needed clarifications and refinements to County licensing regulations, have necessitated amendments to Chapter 7 of the La Plata County Code; and

Rtn: BoCC

WHEREAS, on November 10, 2015, the Board of County Commissioners held a public meeting as part of a properly noticed business agenda to receive evidence and testimony from county staff as well as members of the public on the proposed amendments and to perform a first reading of this ordinance; and

WHEREAS, on December 8, 2015, the Board of County Commissioners held a public meeting as part of a properly noticed business agenda to perform a second and final reading of this ordinance and receive evidence and testimony from county staff as well as members of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LA PLATA, STATE OF COLORADO:

Section 1. The foregoing recitals are incorporated herein and made a part of this ordinance.

Section 2. Articles I and III of Chapter 7 of the La Plata County Code are repealed in their entirety and reenacted as set forth in the attached Exhibit A.

Section 3. Articles II and IV of Chapter 7 of the La Plata County Code are not being modified and shall remain in full force and effect.

Section 4. Medical marijuana businesses and retail marijuana establishments are still banned, and shall not be located, within the three mile buffer surrounding the incorporated areas of the Town of Bayfield and the Town of Ignacio.

Section 5. This ordinance shall apply within the unincorporated territory of La Plata County. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado, but shall be in addition thereto.

Section 6. It shall be unlawful for any person to violate any provision of this ordinance.

Section 7. This ordinance may be enforced by any law enforcement officer or any other persons or positions designated by the Board of County Commissioners as enforcement officers under this ordinance. At this time, the Board of County Commissioner hereby designates the County medical marijuana inspectors, retail marijuana inspectors, code enforcement officer and building director as enforcement officers for purposes of this ordinance and may designate additional enforcement officers in the future as needed.

Section 8. Pursuant to C.R.S. § 30-15-402, any arresting law enforcement officer enforcing this ordinance is hereby authorized to utilize the penalty assessment procedure provided in C.R.S. § 16-2-201.

Section 9. Pursuant to C.R.S. § 30-15-402, any person or entity that violates this ordinance shall be guilty of a class 2 petty offense. The fine for a first offense and for any subsequent offense shall not exceed one thousand dollars ($1,000.00) per violation, and each day shall be deemed a separate violation. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasury of La Plata County. This fine may be in addition to any fine levied for license violations pursuant to Chapter 7.

Section 10. In addition to the aforementioned fines and penalties prescribed in this ordinance, any person convicted of a violation of this ordinance shall be subject to the statutory surcharges of ten dollars ($10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the respective funds in accordance with C.R.S. § 30-15-402(2).

Section 11. This ordinance shall be liberally construed so as to further its purposes.

Section 12. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares this ordinance to be severable and further declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 13. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 14. This ordinance shall become effective thirty (30) days after final publication, as provided by law.

PASSED, ADOPTED, AND APPROVED by the Board of County Commissioners of the County of La Plata, Colorado on this 8th day of December, 2015.

Attest:

Clerk to the Board

LA PLATA COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

Gwen Lachelt, Chair

Brad Blake, Vice Chair

Julie Westendorff, Commissioner

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

I, Tiffany Parker, Clerk and Recorder of La Plata County, Colorado, do hereby certify that Ordinance No. O-2015-01 was regularly introduced and read at a business meeting of the Board of County Commissioners of La Plata County, Colorado on the 10th day of November, 2015, and was ordered to be and was published in accordance with the terms and conditions of the statutes in such cases in the Durango Herald, a newspaper of general circulation, on the 12th day of November, 2015, prior to its final consideration by the La Plata County Board of County Commissioners.

Tiffany L Parker
Clerk and Recorder

I further certify that said Ordinance No. O-2015-01 was duly adopted by the La Plata County Board of County Commissioners on the second and final reading on the 8th day of December, 2015, and that in accordance with instructions received from the La Plata County Board of County Commissioners, either the ordinance was published in full, or the title of the ordinance along with the full text of any amendments and reference to the date of the initial publication was published, in the Durango Herald on the 11th day of December, 2015.

Tiffany L Parker
Clerk and Recorder

EXHIBIT A

Chapter 7 - MARIJUANA

Article I – MEDICAL MARIJUANA

Sec. 7-1. Applicability and Definitions.

I. All medical marijuana licensees must comply with the regulations of this article, as well as all other applicable state laws, rules and regulations. A person must first obtain a license pursuant to this article, the Medical Marijuana Code, and the Medical Marijuana Rules prior to commencement of a medical marijuana business.

II. Unless otherwise defined in this article, the definitions set forth in subsection 14(1) of Article XVIII of the Colorado Constitution, the Medical Marijuana Code, C.R.S. § 12-43.3-104, as amended, and the Medical Marijuana Rules, as amended, shall apply to this article. The following terms shall have the meanings set forth below.

Amendment 20 means Section 14 of Article XVIII of the Colorado Constitution.

Medical Marijuana Code means the Colorado Medical Marijuana Code, C.R.S. §§ 12-43.3-101 *et seq.*, as may be amended from time to time.

Medical Marijuana Rules means the rules promulgated pursuant to the Medical Marijuana Code by the Colorado Department of Revenue, Marijuana Enforcement Division, 1 CCR 212-1, as may be amended from time to time.

Person means a natural person, partnership, association, company, corporation, limited liability company or any other type of business organization, as well as a manager, agent, owner, director, officer or employee thereof; except, the term does not include any governmental organization.

Sec. 7-2. Local licensing authority and classes of licenses.

I. *Type of licenses.* The medical marijuana licensing authority for the County shall be an individual or individuals appointed by the Board of County Commissioners and shall serve at the pleasure of the board. The local licensing authority may grant extensions of deadlines under this article for good cause shown and may issue the following local medical marijuana licenses:

A. Medical marijuana center

B. Medical marijuana optional premises cultivation operation

C. Medical marijuana-infused products manufacturer

II. *State license required.* No new license issued by the local licensing authority shall be effective until such time as the state licensing authority approves and issues a state license for the same proposed licensed premises.

If the local licensing authority approves an application for renewal of a medical marijuana business license prior to state approval and issuance of the same, the County license shall be conditional on approval by the state licensing authority. The denial of an application by the state licensing authority shall be considered as a basis for the local licensing authority to revoke the local license.

III. *Dual licenses.* The dual operation of a medical marijuana business with its retail marijuana equivalent, licensed under article III of this chapter, is permitted so long as all applicable state and local licenses have been issued; remain valid and active for both operations; and both operations are in compliance with all applicable state and local requirements.

IV. *Off-premises storage.* A medical marijuana business that receives a license under this article may also be permitted for one off-premises storage facility. For new medical marijuana businesses, any off-premises storage facility will be approved as part of the establishment's application for a new license as set forth in this article. For existing medical marijuana businesses, approval of an off-premises storage facility will be processed as a modification to the existing medical marijuana business's license as set forth in this article. All off-premises storage facilities licensed under this article shall meet all applicable requirements of this article, the Medical Marijuana Code and Medical Marijuana Rules. In addition, off-premises storage facilities must obtain all necessary land use and building code approvals prior to commencing operation. Approved off-premises storage facilities shall be considered a part of the licensed premises.

Sec. 7-3. License restrictions.

I. A license shall not be issued to and shall not be held by:

A. A person who has not paid all of the required annual fees;

B. A person whose history indicates that he or she is not of good moral character;

C. An entity, whose officer, director, manager, member, partner or stockholder's history indicates that he or she is not of good moral character;

D. A licensed physician making patient recommendations;

E. A person employing, assisted by, or financed in whole or in part by any other person whose history indicates he or she is not of good moral character and reputation satisfactory to the local licensing authority;

F. A person under 21 years of age;

G. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, is delinquent on the payment of County property taxes;

H. A person who:

1. is currently subject to or has discharged a sentence for a conviction of a felony in the five (5) years immediately preceding his or her application date; or

2. is currently subject to or has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation or use of a controlled substance in the ten (10) years immediately preceding his or her application date or five (5) years from May 28, 2013, whichever is longer; except that the licensing authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license.

I. A Sheriff's Office employee, police officer, prosecuting officer, or a local jurisdiction employee;

J. An employee of the state licensing authority who had regulatory oversight responsibilities for individuals, retail marijuana establishments and/or medical marijuana businesses licensed by the state licensing authority in the six (6) months immediately preceding the date of the person's application;

K. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application;

L. A person who employs another person at a medical marijuana business who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;

M. A person whose authority to be a primary caregiver, as defined in C.R.S. § 25-1.5-106(2), as amended, has been revoked by the state health agency;

N. A person who operates a retail food establishment or wholesale food establishment on the same premises;

O. A person who is not in possession of the licensed premises throughout the duration of the license period; or

P. A person who fails to meet qualifications for licensure that directly and demonstrably relate to the operation of a medical marijuana business.

Sec. 7-4. New license applications.

I. An application for a new license shall be submitted on current forms provided by the state, together with forms provided by the County. Applications shall be materially complete and must include all attachments, checklists, verifications and supporting documents required by the state or County's current forms before the application will be accepted or considered. The County may refuse to accept an incomplete application. Every application shall include supporting documentation adequate to demonstrate the following:

A. *Proof of the right to possess the proposed premises.* Documents that demonstrate proof of possession of the proposed premises may include a copy of a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.

B. *Building plan.* The plans for the interior shall include a detailed floor plan layout drawn to scale (1/4" = 1 ft.) which clearly reflects the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems and all grow light configurations. Where marijuana products are prepared, a detailed plan for the concentrate production and/or food preparation areas must be detailed separately, where applicable. For proposed facilities that are contained in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted. All drawings shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger. All drawings submitted to the County must match the drawings and diagrams submitted to the state or such plans will not be accepted.

C. *Location plan, plot plan.*

1. The location plan shall show all uses within 50 feet of the licensed premises and any of following uses that are located within 1,500 feet of the licensed premises: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary,

or a residential child care facility; or (iii) a drug or alcohol rehabilitation treatment center. The measurement shall be a direct line between the closest point of the project boundary and the closest boundary point on the neighboring lots or parcels. If the premises is within 3.5 miles of the municipal boundaries of either the towns of Ignacio or Bayfield, the location plan shall also show the distance to the nearest incorporated portions of such town. The measurement shall be a direct line between the closest point of the licensed premises and the boundary of the closest parcel within the incorporated area of the towns of Ignacio or Bayfield. The location plan shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger.

2. The plot plan shall show the location of the building containing the proposed licensed premises and provide distances from the building to adjacent buildings and occupancies, property lines, and physical land features, such as streams, driveways, and roadways. The plot plan shall be professionally prepared by an architect, engineer or other drafting profession and submitted on paper 24" x 36" or larger.

3. Upon approval by the building department director, the plot plan and location plan requirements may be satisfied through the submittal of one plan professionally prepared by an architect, engineer or other drafting professional and on paper 24" x 36" or larger.

D. *Fees*. All applicable fees shall be submitted with the application.

E. *Fingerprints*. Applications shall include a set of fingerprints for each of the applicant's individual owners on forms provided by the state.

F. *Corporate formation documents for the proposed licensee*. Applications shall include all formation documents filed with the Colorado Secretary of State, including a certificate of good standing issued by the Secretary of State's office.

G. *Material safety data sheets*. MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises shall be submitted with the application.

H. *Off-premises storage*. If an applicant is seeking approval of an off-premises storage facility, applications shall include a copy of the completed state forms. In addition, the application shall include documents demonstrating the right to possess the off-premises storage facility along with a building, location and plat plan specific to the off-premises storage facility, as described in I.A., I.B. and I.C. of this section.

I. *Additional Information.* Any additional information the local licensing authority may require to enable it to determine whether a license should be granted, including but not limited to proof of compliance with the Medical Marijuana Code, the Medical Marijuana Rules, or any regulations under this article.

II. Prior to the local licensing authority's final determination on an application, the applicant shall provide the following information:

A. *Electrical installation comments.* Written comments or a copy of an approved inspection report from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the proposed premises.

B. *Proof of land use approval.* Documents that demonstrate proof of land use approval, which may include the minutes from the hearing approving the land use, and proof that any conditions of such approval have been satisfied.

C. *Building code approval.* Written comments or a letter from the County building department confirming that the proposed licensed premises complies with all applicable building code provisions, has all necessary building permits and has been issued a certificate of occupancy.

D. *County treasurer.* Proof from the County treasurer's office that all property taxes have been paid and no tax liens exist on the property where the medical marijuana business will be located.

III. As a condition of all new licenses, within 60 days after the local licensing authority's final determination on an application, the applicant shall provide the following information:

A. *Fire authority/district comments.* Written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code.

B. *San Juan Basin Health Department approval.* Proof of compliance with San Juan Basin Health Department health standards. Documents that demonstrate compliance with San Juan Basin Health Department health standards may include a copy of an initial/remodel inspection and compliance report; an executed letter from San Juan Basin Health Department demonstrating compliance with relevant health standards; or, confirmation from the San Juan Basin Health Department that its health standards do not apply.

At a duly called meeting, the local licensing authority may extend the 60 day deadline for submittal of the information required in this subsection for good cause. Failure to comply with the requirements of this section shall be considered a basis for the local licensing authority to summarily suspend the license.

Sec. 7-5. New application review.

I. *General.* New application review shall include a preliminary determination and final determination on the application by the local licensing authority. The preliminary determination shall take place after a duly noticed public hearing. The final determination may be done administratively by the medical marijuana licensing authority at a duly called meeting. If additional testimony is required, the local licensing authority may hold a second hearing prior to a final determination on the application. The decision to hold a hearing prior to a final determination is in the sole discretion of the local licensing authority, but if an applicant receives preliminary determination approval, the application shall not be denied without a second public hearing.

II. *Public hearing notice.* Notice for a public hearing shall be published and posted by the local licensing authority not less than ten (10) days prior to the hearing. The local licensing authority shall post the sign in a conspicuous place on the license applicant's premises for which application has been made that is clearly visible to the general public and shall publish in a newspaper of general circulation in the County. Public notice given by publication and posting shall comply with the requirements found in C.R.S. § 12-43.3-302, as amended.

III. *Preliminary determination.* No less than 30 days after receipt of a complete application, a public hearing shall be held for a preliminary determination on the application. Further, the public hearing will not be scheduled or noticed until the results of the fingerprint-based criminal history records check completed by the Colorado Bureau of Investigations and the Federal Bureau of Investigations are received by County staff.

IV. *Final determination.* Within one (1) year of a preliminary determination, the local licensing authority shall make a final determination on the application.

V. *Concurrent review request.* Prior to the local licensing authority's preliminary determination, the local licensing authority, or an applicant with local licensing authority approval, may request concurrent review by the state licensing authority.

VI. *Results of the investigation(s).* At least five (5) days prior to a public hearing, the local licensing authority shall provide the applicant and other parties of interest a written or electronic copy of the findings of the investigation.

Sec. 7-6. New application determination.

I. *Local licensing authority preliminary determination considerations.* The local licensing authority may consider the facts and evidence adduced as a result of the

investigation, as well as any other facts pertinent to the type of license for which the application has been made, including the number, type, and availability of medical marijuana businesses located in or near the premises under consideration, and any other pertinent matters affecting the qualification of the applicant for the conduct of the type of business proposed, including but not limited to, the applicant's good moral character. An applicant is not required to demonstrate compliance with the land use code, building code, fire code, San Juan Basin Health Department rules and regulations and/or health standards, or electrical code prior to a preliminary determination.

II. *Local licensing authority final determination considerations.* Prior to issuing a final determination on the application, the local licensing authority may consider the facts and evidence adduced as a result of the investigation, as well as other facts and evidence contained in the record, to determine whether an applicant complies with the land use code, building code, and electrical code. The local licensing authority may place conditions upon a license approval that are reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the licensed premises is to be located and of the general public.

III. *Preliminary determination denial.* After a public hearing, the application may be denied if the applicant does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Marijuana Code, the Medical Marijuana Rules, or any regulations under this article; except, an application shall not be denied for failure to meet land use code, building code, fire code, San Juan Basin Health Department rules and regulations and/or health standards, and electrical code requirements.

IV. *Final determination denial.* After a public hearing, the application may be denied if the applicant does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Marijuana Code, the Medical Marijuana Rules, or any applicable regulations under this article.

V. *Written determination.* A written decision with findings supporting the preliminary determination or final determination approval or denial of the application shall be issued within 30 days after the public hearing. A copy of the decision(s) shall be sent by certified mail to the applicant at the address shown in the application.

VI. *Prior to operation.* After a final determination approval, the license shall not be issued until the building in which business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment as is necessary to comply with the application provisions of this article. An inspection of the premises must be conducted prior to issuance of the license to determine that the applicant has complied with the building plans, plot plans and/or sketches for the building.

VII. *License duration.* All local licenses shall be valid for one year, unless duly revoked or suspended. The initial period shall begin to run on the date of issuance of a license by the state licensing authority, regardless of when the local license is issued.

Sec. 7-7. Background investigations and duty to report.

I. *Criminal justice records.* The local licensing authority may review criminal justice records furnished by a criminal justice agency, as well as other records that are relevant to a final determination on the application. The local licensing authority may use the information resulting from a criminal history record check to determine whether an applicant is qualified to hold or continue to hold a license pursuant to this chapter. If the local licensing authority considers the applicant's criminal history record, it shall also consider information submitted by the applicant, including but not limited to, evidence of rehabilitation, character references, and educational achievements.

II. *Duty to report.* Any owner, officer, manager, president or other executive officer of an entity licensed pursuant to this chapter, or who has a pending application pursuant to this chapter, must make written notification to the local licensing authority of any felony or controlled substance criminal conviction and criminal charge within ten (10) days of such person's arrest, summons, or conviction.

A licensee shall report any discovered plan or other action of any person to commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the licensed business to the local licensing authority. A report shall be made as soon as possible after the discovery of the action, but in no case later than 14 days after such discovery.

III. *Good Moral Character.* In determining good moral character of any applicant under this article, the local licensing authority may consider, but is not limited to, the following factors:

A. Any inconsistency between information provided by the applicant on the licensing application and the information that is discovered through due diligence by the staff in processing the application.

B. Any civil lawsuits that demonstrate a pattern of fraud and/or dishonesty or a lack of respect for legal obligations.

C. The denial, suspension, loss or revocation of any professional or business license.

D. Any violation(s) of Colorado Marijuana Enforcement Division rules for any marijuana business or establishment owned by the applicant.

E. Any criminal conviction, including misdemeanor convictions, on the licensed premises by the applicant.

F. More than one misdemeanor conviction in one year or three or more misdemeanor convictions in the last five (5) years.

G. Any felony conviction within the past fifteen (15) years or a drug-related felony at any time, unless such felony is no longer a criminal offense.

H. More than one DUI offense in the last five (5) years and/or lack of follow through on Court-ordered requirements.

Sec. 7-8. General restrictions.

I. A premises licensed under this article shall not be:

A. Located in the same location as or within 1,000 feet of a location which an application for a license was denied within the two (2) years immediately preceding the date of the application because of the nature of the use or other concerns related to location.

B. Located within 1,000 feet from any of the following uses whether such uses are inside or outside the unincorporated boundaries of the County: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary, or a residential child care facility; or (iii) a drug or alcohol rehabilitation treatment center. For purposes of this provision, the distance shall be calculated by direct measurement between the closest point of the licensed premises and the closest point on the property line of neighboring land upon which any of the above referenced uses are located. A specific finding of fact shall be made that the proposed premises is not within 1,000 feet of the above-referenced uses.

C. Located within three (3) miles of the nearest incorporated portions of the towns of Ignacio and Bayfield at the time a complete application for a new license is accepted by the County. The measurement shall be a direct line between the closest point of the licensed premises and the boundary of the closest parcel incorporated in the towns of Ignacio or Bayfield.

D. In violation of the land use code.

E. In violation of the fire code.

F. In violation of the building code.

G. In violation of any relevant rules and regulations and/or health standards adopted by San Juan Basin Health Department.

H. Located on a parcel that is delinquent on the payment of County property taxes.

I. Located in a building that has any portion of it classified as residential under the County building code.

J. Currently licensed as a retail food establishment or wholesale food registrant.

II. Medical marijuana center restrictions.

A. Medical marijuana centers may be open to the public only between the hours of 8:00 am and 8:00 pm. No sale or other distribution of medical marijuana and/or marijuana-infused products shall occur, and medical marijuana centers shall be closed to the public, outside of these hours.

B. All sales and distribution of medical marijuana and marijuana-infused products by medical marijuana centers shall occur in person and only upon the licensed premises. The licensee along with any employee, agent and/or associate of the licensee is strictly prohibited from delivering any medical marijuana and/or marijuana-infused product to any person at any other location. No sales shall be made by telephone, internet or other means of remote purchase.

C. All displays, storage and sales of medical marijuana and marijuana-infused products shall not be visible from the exterior of the business.

D. The consumption of any alcoholic beverage, marijuana or marijuana product is strictly prohibited on the licensed premises at any time.

E. If a medical marijuana center that allows medical marijuana patients under the age of 21 years to be on the premises is dually located with a retail marijuana store, the medical marijuana center and the retail marijuana store must maintain complete and distinct physical separation of the licensed premises, including but not limited to separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

F. For compliance with the County building code, all medical marijuana centers shall be classified as Group M and shall, at a minimum, meet all applicable requirements of Group M in order to receive a building permit.

III. Medical marijuana optional premises cultivation operation restrictions.

A. A medical marijuana optional premises cultivation operation must obtain a separate license for each medical marijuana center it supplies.

B. If a medical marijuana optional premises cultivation operation is dually located with a retail marijuana cultivation facility, the licensee shall maintain visual and operational separation of the two licensed operations, including marijuana plants and marijuana inventory.

C. A medical marijuana optional premises cultivation operation license may only be issued to a person who also has a valid medical marijuana center license or a medical marijuana-infused products manufacturer license.

D. For compliance with the County building code, all medical marijuana optional premises cultivation operations shall be classified as Group F and shall, at a minimum, meet all applicable requirements of Group F-1 in order to receive a building permit except for buildings and structures of an accessory character that are used exclusively for the cultivation of marijuana, which may be classified as Group U at the discretion of the building department and then if so classified, shall meet all applicable requirements of Group U in order to receive a building permit.

IV. Medical marijuana-infused products manufacturer restrictions.

A. If a medical marijuana-infused products manufacturer is dually located with a retail marijuana products manufacturing facility, the licensee shall maintain visual and operational separation of the two licensed operations, including product ingredients and product inventory.

B. For compliance with the County building code, all medical marijuana-infused products manufacturers shall be classified as Group F and shall, at a minimum, meet all applicable requirements of Group F-1 in order to receive a building permit.

C. If a medical marijuana-infused products manufacturer engages in the production of medical marijuana concentrate using a method that utilizes a flammable solvent or flammable gas, the medical marijuana-infused products manufacturer shall be classified as Group H under the County building code if it exceeds any of the thresholds set forth in Table 307.7(1) of the 2003 International Building Code and shall, at a minimum, meet all applicable requirements of Group H-1, H-2 or H-3, as determined by Table 307.7(1), in order to receive a building permit.

Sec. 7-9. Transfer or change of ownership.

I. An application for a transfer or change of ownership must be submitted when an applicant proposes to: (i) transfer its license to a different entity, (ii) sell or otherwise transfer the licensed entity to new owners, or (iii) when the licensed entity proposes to admit new owners. The license holder and proposed transferee shall apply to and receive approval from the local licensing authority prior to the transfer or change of ownership of a license.

II. An application for a transfer or change of ownership shall be submitted to the local licensing authority at least 30 days prior to any requested transfer on current forms provided by the state, and shall include set(s) of fingerprints for each new individual proposed owner on forms provided by the state. All application forms, checklists and supporting documents required by the state for a transfer or change of ownership must be provided to the local licensing authority.

III. A transfer or change of ownership shall be considered pursuant to the requirements of this article, and the local licensing authority shall consider all pertinent matters affecting the qualifications of the proposed licensee for the proposed transfer, including but not limited to the applicant's good moral character. A determination on transfer or change of ownership shall take place after a duly noticed public hearing noticed in the same manner as a new application. An application for transfer or change of ownership may be denied based on a finding of good cause.

IV. The public hearing will not be scheduled or noticed until the results of the fingerprint-based criminal history records check completed by the Colorado Bureau of Investigations and the Federal Bureau of Investigations are received by County staff.

V. No transfer or change of ownership application will be considered by the local licensing authority if, at the time the application is submitted, the licensee is under a notice of violation issued by either the local licensing authority or the state licensing authority.

Sec. 7-10. Modifications to premises.

I. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises without the prior written consent of both the local licensing authority and the state licensing authority for the same proposed modification, physical change or alteration. An application for a modification shall be submitted on current forms provided by the County, unless the modification is for the addition of an off-premises storage facility, which shall be submitted on current state forms along with all the documents required in Sec. 4(1)(h). Physical changes, alterations or modifications that require written consent, include, but are not limited to the following:

A. Any increase or decrease in the total physical size or capacity of a licensed premises;

B. Changes or modifications to the interior building plans;

C. Any modification or increase in the electrical load from the licensed premises;

D. Modifications of the chemicals or chemical mixtures used or stored on the premises; or

E. Any other change in the interior of the premises that would affect the basic character of the premises.

II. Written consent from the local licensing authority shall not be required for painting and redecorating of the premises, and the replacement of furniture and equipment, which does not increase the electrical load.

III. A hearing, noticed in the same way as a new application, shall be held if: (i) the proposed modification increases the square footage of the premises or electrical load by more than ten percent (10%); (ii) there has been one (1) prior modification anytime within the previous twelve (12) months that was granted without a hearing; or (iii) before an application for a modification may be denied. When making a determination on the modification, the local licensing authority shall determine whether the proposed modification will meet all requirements of the Medical Marijuana Code, the Medical Marijuana Rules, and all applicable regulations under this article. The local licensing authority may request a fire authority/district, the building department, Colorado State Electrical Board, San Juan Basin Health Department, or any other relevant agency or department, investigate and provide documentation on the proposed modifications. If a hearing is not held, the local licensing authority may approve the modification administratively, at a duly called meeting.

Sec. 7-11. Change of Location.

Any license granted under this article is limited to the location specified in the license application. The relocation of an existing licensed medical marijuana business shall require a new license. Any fees paid for a prior location may not be applied to the new location.

Sec. 7-12. Renewal.

I. Renewal applications. An application for a renewal of a license shall be submitted on current forms provided by the County. Applications shall include supporting documentation adequate to demonstrate the following:

A. *Proof of the right to possess the premises.* Documents that demonstrate proof of possession of the proposed premises may include a copy of a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.

B. *Building plan.* The plans for the interior shall include the current detailed floor plan and layout for the area under the control of the applicant and shall clearly identify the licensed premises. The plans shall be drawn to scale (1/4" = 1 ft.) and clearly reflect the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems and all grow light configurations. Where marijuana products are prepared, a detailed plan for the concentrate production and/or food preparation area must be detailed separately, where applicable. The plans for the interior shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger. All drawings submitted to the County must match the drawings and diagrams submitted to the state or such plans will not be accepted.

C. *Fees.* All appropriate fees shall be submitted with the application.

D. *County treasurer.* Proof from the County treasurer's office that all property taxes have been paid and no tax liens exist on the property where the medical marijuana business will be located.

E. *State taxes.* Proof that the licensee has paid all applicable excise and sales tax to the Department of Revenue during the prior licensed term.

F. *Corporate good standing for the licensee.* If the licensee is an entity, evidence of good standing in the State of Colorado shall be submitted.

G. *Proof of State License for previous term.* Verification that a license was issued and granted by the state licensing authority for the prior licensed term shall be submitted.

H. *Proof of Additional License.* For medical marijuana optional premises cultivations operations, a current approved medical marijuana center license or a medical marijuana-infused products manufacturers' license.

I. *Fingerprints.* Applications shall include a set of fingerprints for each of the applicant's individual owners on forms provided by the state.

J. *Material safety data sheets.* MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises shall be submitted with the application.

K. *San Juan Basin Health Department approval.* Proof of compliance with San Juan Basin Health Department health standards, as demonstrated through San Juan Basin Health Department inspection reports.

L. *Fire authority/district approval.* Applications shall include written comments or a letter from the appropriate fire district demonstrating compliance with the fire code.

M. *Electrical approval.* Applications shall include written comments or a letter from an inspector from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the premises.

N. *Additional Information.* Any additional information the local licensing authority may require to enable it to determine whether a license should be renewed, including but not limited to proof of compliance with the Medical Marijuana Code, the Medical Marijuana Rules, or any regulations under this article.

O. *Waiver.* The local licensing authority may waive, at its sole discretion, any of the above submission requirements.

II. *Renewal application deadline.* A licensee shall apply for the renewal of an existing license to the local licensing authority by submitting a complete renewal application not less than forty-five (45) days prior to the date of expiration. Renewal applications shall be materially complete and must include all attachments, checklists, verifications and supporting documents required by the County's current forms before the application will be accepted or considered. The County may refuse to accept an incomplete application. If a licensee timely applies for the renewal of an existing license, the local licensing authority may administratively continue the license, at a duly called meeting, beyond the expiration date while it completes the renewal licensing process.

III. *Hearing.* The local licensing authority may hold a public hearing on a renewal application, but only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the license that would constitute good cause for non-renewal. Any hearings shall be noticed in the same manner as a new application. The local licensing authority may deny an application based on a finding of good cause. Where no hearing is held, the local licensing authority may administratively approve the renewal at a duly called public meeting.

IV. *Conditions.* The local licensing authority may place conditions upon a renewal license that are reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the licensed premises is to be located and of the general public.

V. *Late filing.* If a license has been expired for no more than 90 days, a late renewal application may be filed upon payment of a nonrefundable late fee of five hundred dollars ($500.00). Upon payment of the fee, the licensee may continue to operate until a final decision is made on the renewal application by the local licensing authority. However, late renewal applications without good cause shown for the late filing may be grounds for denial of the license renewal. The local licensing authority shall not accept a renewal application that is filed more than 90 days past the license expiration date.

VI. *Failure to renew license prior to expiration.* A license is immediately invalid upon its expiration if the licensee fails to file a late renewal application along with all required fees. If a licensee fails to renew its license prior to its expiration, the licensee shall cease all operations at the medical marijuana business. If a former licensee files a renewal application 90 days after the date of expiration, the application will be treated and processed as a new license application and the licensee shall not operate the medical marijuana business until a new license is approved.

Sec. 7-13. Compliance with State Laws and Rules.

If the state adopts additional laws or rules that are stricter than those within this article, the additional state laws or rules shall control, and shall be deemed additional requirements for the issuance, denial, renewal, suspension or revocation of any license issued pursuant to this article.

Sec. 7-14. Occupational Licenses.

Within ten (10) days of the state's issuance of an occupational license, as required by the Medical Marijuana Code and Medical Marijuana Rules, a licensee shall provide a copy of such license to the County, but only for persons who hold supervisory or managerial positions. The licensee shall provide the County with notice of termination of such a person holding an occupational license within ten (10) days of the termination.

Sec. 7-15. Inspections.

The licensed premises, including but not limited to any places of storage where medical marijuana is grown, stored, cultivated, sold, processed or dispensed, shall be subject to inspection by the local licensing authority, its investigators and designees, including but not limited to local fire districts and San Juan Basin Health Department, during all business hours and other times of apparent activity for the purpose of inspection or investigation. Upon request, the applicant or licensee shall timely provide the local licensing authority with records related to the business. If any part of the licensed premises consists of a locked area, such area shall be made available for inspection without delay upon request by any authorized representative of the local licensing

authority. Failure to make records related to the business or a locked area of the licensed premises available for inspection upon request shall constitute a violation of this article and such violation may, in the discretion of the local licensing authority, form or constitute a basis for summary suspension or other enforcement proceedings against the licensee. This section shall not limit any inspection authority authorized under law.

Sec. 7-16. Enforcement.

I. *Unlawful acts.*

A. It is unlawful and a violation of this article and of the terms and conditions of every license issued pursuant to this article to cultivate, process, manufacture, distribute, store, test or sell medical marijuana, except in strict compliance with this article, the Medical Marijuana Code, the Medical Marijuana Rules, and Amendment 20.

B. It is unlawful for any person to engage in any form of business or commerce directly involving the cultivation, processing, manufacturing, distribution, storage, testing or sale of medical marijuana other than those forms of business and commerce that are expressly contemplated by this article the Medical Marijuana Code, the Medical Marijuana Rules, and Amendment 20.

II. *Investigation.* Investigations shall be initiated by the County medical marijuana inspector after receiving a complaint or observing potential noncompliance. If the investigation demonstrates that probable cause of a violation by the licensee, its agents or employees of this article, the Medical Marijuana Code, or the Medical Marijuana Rules may exist, then a written summary of the facts and the supporting evidence shall be provided to the local licensing authority. If the local licensing authority finds such evidence persuasive, it shall issue an order to show cause why the licensee's license should not be subject to disciplinary action and such order shall include a date for a public hearing.

III. *Responsive Pleading.* A respondent shall file a written response to an order to show cause issued by the local licensing authority within thirty (30) days of the date such order is mailed to the respondent. If a respondent fails to file a written response within this time frame, the local licensing authority may enter a default judgment against the respondent. For good cause shown, the local licensing may set aside a default judgment entry within ten (10) days of such entry.

IV. *Hearing.* After hearing testimony at a public hearing noticed in the same manner as new applications, the local licensing authority may issue a verbal or written warning, a fine, a fine in lieu of suspension, or suspend or revoke a license for violation by the licensee, its agents or employees of this article, the Medical Marijuana Code, the Medical Marijuana Rules, or provisions of the license. The local licensing authority

may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary for determination at a hearing. The licensee shall be given the opportunity to cross-examine those testifying, as well as provide evidence in defense or to mitigate a penalty.

V. *Sanctions*. Notice of a suspension, revocation, or other sanction shall be mailed to licensee at the address contained in the license and deemed received three (3) days from the date of mailing. A suspension shall not be longer than six (6) months. Notice of a suspension shall be posted on the premises in accordance with the requirements of the Medical Marijuana Code and Medical Marijuana Rules.

VI. *Penalty Schedule*. The penalty schedule is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis. The local licensing authority shall make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

A. *License Violations Affecting Public Safety*. This category of violation is the most severe and may include, but is not limited to, medical marijuana sales to non-patients, consuming marijuana on the licensed premises, medical marijuana sales in excess of the relevant transaction limit, permitting the diversion of medical marijuana outside the regulated distribution system, possessing medical marijuana or medical marijuana-infused products obtained from outside the regulated distribution system or from an unauthorized source, failure to continuously escort a visitor in a Limited Access Area, violations related to dually located medical marijuana businesses and retail marijuana establishments, failure to maintain books and records to fully account for all transactions of the business, or packaging or labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

B. *License Violations*. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and

records, or minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

C. *License Infractions*. This category of violation is the least severe and may include, but is not limited to, failure to display required badges, unauthorized modifications of the licensed premises of a minor nature, or failure to notify the local licensing authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

D. *Mitigating and Aggravating Factors*. The local licensing authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the licensee has admitted to or was found to have engaged in.

2. Action taken by the licensee to prevent the violation (e.g., training provided to employees).

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Owner or manager is the violator or has directed an employee or other individual to violate the law.

8. Participation in state-approved educational programs related to the operation of a medical marijuana business.

VII. *Fine in lieu.* If the local licensing authority suspends a license for 14 days or less, the licensee may, before the date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. The local licensing authority may stay the proposed suspension, investigate the matter, and may grant the petition if it makes a finding that the factors set forth in C.R.S. § 12-43.3-601(3)(a) are satisfied. The fine accepted shall be not less than $500.00 and no more than $100,000.00. The fine shall be based on the costs and expenses for the County's investigation and hearing, as well as a penalty that is supported by the record. Upon payment of the fine, the local licensing authority shall enter a further order permanently staying the imposition of the suspension.

VIII. *Summary suspension.* A license may be summarily suspended by the local licensing authority without notice pending a hearing when the local licensing authority finds that there are objective and reasonable grounds that the public health, safety or welfare imperatively requires emergency action or that the licensee, its agents or employees has either willfully and deliberately violated this article, the Medical Marijuana Code, the Medical Marijuana Rules, or provisions of the license. A license may be summarily suspended only after a full investigation by the County medical marijuana inspector and delivery of a written presentation of the findings to the local licensing authority. A hearing on suspension or revocation shall be held and determined promptly after a summary suspension occurs.

IX. *Illegal controlled substance.*

A. The local licensing authority's order may specify that some or all of the licensee's marijuana or marijuana-infused product is not medical marijuana or a medical marijuana-infused product and is an illegal controlled substance. The order may specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as medical marijuana or a medical marijuana-infused product.

B. The local licensing authority order may direct the destruction of any such marijuana and marijuana-infused products. If destruction is ordered, the licensee may:

1. Voluntarily surrender to the local licensing authority all of the marijuana or marijuana-infused products declared an illegal controlled substance by the order;

2. File a petition for a stay of the local licensing authority order with the La Plata County District Court within 15 days of the date of the issuance of the local licensing authority order; or,

3. If the Licensee does not either (1) voluntarily surrender all of the marijuana or marijuana-infused products declared an illegal controlled substance by the local licensing authority order as set forth in this section; or, (2) properly seek a stay of the local licensing authority order as set forth in this section, the local licensing authority shall have the authority to enter upon the licensed premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the local licensing authority order.

C. The local licensing authority shall not carry out destruction until at least 15 days following the issuance of the order has passed and the District Attorney for the 6th Judicial District has been notified of the impending destruction. The local licensing authority will not carry out the destruction if the District Attorney for the 6th Judicial District has notified the local licensing authority that the marijuana or marijuana-infused products declared an illegal controlled substance constitute evidence in a criminal proceeding and it should not be destroyed.

D. During the period of time between the issuance of the local licensing authority order and the destruction of the marijuana or marijuana-infused products declared an illegal controlled substance, the licensee shall not sell, destroy, or otherwise let any marijuana or marijuana-infused products declared an illegal controlled substance leave the licensed premises, unless specifically authorized by the local licensing authority or Court order, and the licensee must safeguard any marijuana or marijuana product in its possession and control and must fully comply with all security requirements.

E. Unless the local licensing authority otherwise orders, the licensee may cultivate, water, or otherwise care for any marijuana or marijuana-infused products declared an illegal controlled substance during the period of time between the issuance of the local licensing authority order and the destruction of the marijuana or marijuana-infused products declared an illegal controlled substance.

Sec. 7-17. Decision and Appeal.

Any decision of the local licensing authority regarding an application, renewal, suspension or revocation shall be in writing setting forth the reasons for the decision. At all times, the applicant or licensee bears the burden of proving it has not committed a violation or is qualified to hold a license by a preponderance of the evidence. The decision of the local licensing authority under this article shall constitute a final decision. Such a final decision is subject to judicial review pursuant to C.R.S. § 24-4-106, as amended.

Sec. 7-18. Fees.

Application, license, operating and any other applicable fees shall be set by the Board of County Commissioners. All applicable fees shall be submitted with the application. If a license is not issued by the local licensing authority, the application fee is non-refundable, but the license and operating fees will be refunded to the applicant. However, once a license is issued, all fees are non-refundable and will not be prorated should a licensee cease operations at the licensed premises for any reason during the license term. Fees for new and renewal licenses may be adjusted by the Board of County Commissioners at any time and will become effective upon existing medical marijuana businesses during the succeeding license period. Applicants shall also pay any fees charged by other agencies, such as local fire districts and San Juan Basin Health Department, to review and approve application materials and/or to perform inspections. Failure to pay such fees shall be grounds for denial of any application submitted pursuant to this article.

Sec. 7-19. Release, indemnification and entitlement.

I. *Release*. By accepting a license issued pursuant to this article, the licensee releases the County, its elected officials, employees, officers, attorneys, and agents from any and all liability for any and all known, unknown or unforeseen damages, injuries, losses and liabilities directly or indirectly related to the licensee's medical marijuana operations, including but not limited to any claim that results from any arrest or prosecution of the licensee, its employees, clients or customers, for a violation of state or federal law, rules, or regulations.

II. *Indemnification*. By accepting a license issued pursuant to this article, the licensee, jointly and severally, if more than one, indemnifies and holds harmless the County, its employees, officers, elected officials, insurers, attorneys and agents from any and all suits, actions, claims, judgments, obligations or liabilities of every nature and description which arise out of or in any manner are connected with the operation of a medical marijuana business that is the subject of the license. Furthermore, the licensee agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees; however, such agreement does not make the licensee an agent or employee of the County.

III. *Entitlement*. No person shall have any entitlement or vested right to licensing under this article. Licenses issued pursuant to this article are a revocable privilege subject to the will, oversight and scrutiny of local and state authorities. This article, the Medical Marijuana Code, and the Medical Marijuana Rules may be changed or amended from time to time. Such changes may preclude the continuance, renewal or further issuance of a local medical marijuana license at any given location. As of the

date this article was enacted, the cultivation, use, possession, distribution and sale of marijuana is illegal under federal law, and any person who engages is such activities does so at their own risk. Any license issued pursuant to this article does not provide any exception, defense or immunity to any person in regard to any potential criminal liability a person may have for the cultivation, use, possession, distribution and sale of marijuana.

IV. *Further affirmation.* The County may require an applicant as part of the application and review process to affirm in writing the requirements of this section.

[Sec. 7-20 is reserved.]

Article III – RETAIL MARIJUANA

Sec. 7-50. Applicability and Definitions.

I. All retail marijuana licensees must comply with the regulations of this article, as well as all other applicable state laws, rules and regulations. A person must first obtain a license pursuant to this article, the Retail Marijuana Code, and the Retail Marijuana Rules prior to commencement of a retail marijuana operation.

II. Unless otherwise defined in this article, the definitions set forth in subsection 16(2) of Article XVIII of the Colorado Constitution, the Retail Marijuana Code, C.R.S. § 12-43.4-103, as amended, and the Retail Marijuana Rules, as amended, shall apply to this article. The following terms shall have the meanings set forth below.

Amendment 64 means Section 16 of Article XVIII of the Colorado Constitution.

Person means a natural person, partnership, association, company, corporation, limited liability company or any other type of business organization, as well as a manager, agent, owner, director, officer or employee thereof; except, the term does not include any governmental organization.

Retail Marijuana Code means the Colorado Retail Marijuana Code, C.R.S. §§ 12-43.4-101 *et seq.*, as may be amended from time to time.

Retail Marijuana Rules means the rules promulgated pursuant to the Retail Marijuana Code by the Colorado Department of Revenue, Marijuana Enforcement Division, 1 CCR 212-2, as may be amended from time to time.

Sec. 7-51. Local licensing authority and classes of licenses.

I. *Type of licenses.* The retail marijuana licensing authority for the County shall be an individual or individuals appointed by the Board of County Commissioners and shall serve at the pleasure of the board. The local licensing authority may grant extensions of deadlines under this article for good cause shown and may issue the following local retail marijuana licenses:

A. Retail marijuana store

B. Retail marijuana cultivation facility

C. Retail marijuana products manufacturing facility

D. Retail marijuana testing facility

II. *State license required.* No new license issued by the local licensing authority shall be effective until such time as the state licensing authority approves and issues a state license for the same proposed licensed premises.

If the local licensing authority approves an application for renewal of a retail marijuana business license prior to state approval and issuance of the same, the County license shall be conditional on approval by the state licensing authority. The denial of an application by the state licensing authority shall be considered as a basis for the local licensing authority to revoke the local license.

III. *Dual licenses.* The dual operation of a medical marijuana establishment licensed under article I of this chapter with its retail marijuana equivalent is permitted so long as all applicable state and local licenses have been issued; remain valid and active for both operations; and, both operations are in compliance with all applicable state and local requirements.

IV. *Off-premises storage.* A retail marijuana establishment that receives a license under this article may also be permitted for one off-premises storage facility. For new retail marijuana establishments, any off-premises storage facility will be approved as part of the establishment's application for a new license as set forth in this article. For existing retail marijuana establishments, approval of an off-premises storage facility will be processed as a modification to the existing retail marijuana establishment's license as set forth in this article. All off-premises storage facilities licensed under this article shall meet all applicable requirements of this article, the Retail Marijuana Code and Retail Marijuana Rules. In addition, off-premises storage facilities must obtain all necessary land use and building code approvals prior to commencing operation. Approved off-premises storage facilities shall be considered a part of the licensed premises.

Sec. 7-52. License restrictions.

I. A license shall not be issued to and shall not be held by:

A. A person who has not paid all of the required annual fees;

B. A person whose history indicates that he or she is not of good moral character;

C. An entity, whose officer, director, manager, member, partner or stockholder's history indicates that he or she is not of good moral character;

D. A person employing, assisted by, or financed in whole or in part by any other person whose history indicates he or she is not of good moral character and reputation satisfactory to the local licensing authority;

E. A person under 21 years of age;

F. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, is delinquent on the payment of County property taxes;

G. A person who:

1. is currently subject to or has discharged a sentence for a conviction of a felony in the five (5) years immediately preceding his or her application date; or

2. is currently subject to or has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten (10) years immediately preceding his or her application date or five (5) years from May 28, 2013, whichever is longer; except that the local licensing authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person was convicted of the offense on the date he or she applied for licensure.

H. A Sheriff's Office employee, police officer, prosecuting officer, or a local jurisdiction employee;

I. An employee of the state licensing authority who had regulatory oversight responsibilities for individuals, retail marijuana establishments and/or medical marijuana businesses licensed by the state licensing authority in the six (6) months immediately preceding the date of the person's application;

J. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application;

K. A person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible; or

L. A person who is not in possession of the licensed premises throughout the duration of the license period.

Sec. 7-53. New license applications.

I. An application for a new license shall be submitted on current forms provided by the County. Applications shall be materially complete and must include all attachments, checklists, verifications, and supporting documents required by the County's current

forms before the application will be accepted or considered. The County may refuse to accept an incomplete application. Every application shall include supporting documentation adequate to demonstrate the following:

A. *Proof of the right to possess the proposed premises.* Documents that demonstrate proof of possession of the proposed premises may include a copy of a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.

B. *Building plan.* The plans for the interior shall include a detailed floor plan layout drawn to scale (1/4" = 1 ft.) which clearly reflects the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems and all grow light configurations. Where marijuana products are prepared, a detailed plan for the concentrate production and/or food preparation area must be detailed separately, where applicable. For proposed facilities that are contained in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted. All drawings shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger. All drawings submitted to the County must match the drawings and diagrams submitted to the state or such plans will not be accepted.

C. *Location plan, plot plan.*

1. The location plan shall show all uses within 50 feet of the licensed premises and any of following uses that are located within 1,500 feet of the licensed premises: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary, or a residential child care facility; or (iii) a drug or alcohol rehabilitation treatment center. The measurement shall be a direct line between the closest point of the project boundary and the closest boundary point on the neighboring lots or parcels. If the premises is within 3.5 miles of the municipal boundaries of either the towns of Ignacio or Bayfield, the location plan shall also show the distance to the nearest incorporated portions of such town. The measurement shall be a direct line between the closest point of the licensed premises and the boundary of the closest parcel within the incorporated area of the towns of Ignacio or Bayfield. The location plan shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger.

2. The plot plan shall show the location of the building containing the proposed licensed premises and provide distances from the building to adjacent buildings and occupancies, property lines, and physical land features, such as

streams, driveways, and roadways. The plot plan shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger.

3. Upon approval by the building department director, the plot plan and location plan requirements may be satisfied through the submittal of one plan on paper 24" x 36" or larger.

D. *Fees*. All applicable fees shall be submitted with the application.

E. *Fingerprints*. Applications shall include a set of fingerprints for each of the applicant's individual owners on forms provided by the state.

F. *Corporate formation documents for the proposed licensee*. Applications shall include all formation documents filed with the Colorado Secretary of State, including a certificate of good standing issued by the Secretary of State's office.

G. *Material safety data sheets*. MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises shall be submitted with the application.

H. *Off-premises storage*. If an applicant is seeking approval of an off-premises storage facility, applications shall include a copy of the completed state forms. In addition, the application shall include documents demonstrating the right to possess the off-premises storage facility along with a building, location and plat plan specific to the off-premises storage facility, as described in I.A., I.B. and I.C. of this section.

I. *Additional Information.* Any additional information the local licensing authority may require to enable it to determine whether a license should be granted, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules, or any regulations under this article.

II. Prior to the local licensing authority's final determination on an application, the applicant shall provide the following information:

A. *Electrical installation comments*. Written comments or a copy of an approved inspection report from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the proposed premises.

B. *Proof of land use approval*. Documents that demonstrate proof of land use approval, which may include the minutes from the hearing approving the land use, and proof that any conditions of such approval have been satisfied.

C. *Building code approval.* Written comments or a letter from the County building department confirming that the proposed licensed premises complies with all applicable building code provisions, has all necessary building permits, and has been issued a certificate of occupancy.

D. *County treasurer.* Proof from the County treasurer's office that all property taxes have been paid and no tax liens exist on the property where the retail marijuana establishment will be located.

III. As a condition of all new licenses, within 60 days after the local licensing authority's final determination on an application, the applicant shall provide the following information:

A. *Fire authority/district comments.* Written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code.

B. *San Juan Basin Health Department approval.* Proof of compliance with San Juan Basin Health Department health standards. Documents that demonstrate compliance with San Juan Basin Health Department health standards may include a copy of an initial/remodel inspection and compliance report; an executed letter from San Juan Basin Health Department demonstrating compliance with relevant health standards; or, confirmation from the San Juan Basin Health Department that its health standards do not apply.

At a duly called meeting, the local licensing authority may extend the 60 day deadline for submittal of the information required in this subsection for good cause. Failure to comply with the requirements of this section shall be considered a basis for the local licensing authority to summarily suspend the license.

Sec. 7-54. New application review.

I. *General.* New application review shall include a preliminary determination and final determination on the application by the local licensing authority. The preliminary determination shall take place after a duly noticed public hearing. The final determination may be done administratively by the local licensing authority at a duly called meeting. If additional testimony is required, the local licensing authority may hold a second hearing prior to a final determination on the application. The decision to hold a hearing prior to a final determination is in the sole discretion of the local licensing authority, but if an applicant receives preliminary determination approval, the application shall not be denied without a second public hearing.

II. *Public hearing notice.* Notice for a public hearing shall be published and posted by the local licensing authority not less than ten (10) days prior to the hearing. The local licensing authority shall post the sign in a conspicuous place on the license

applicant's premises for which application has been made that is clearly visible to the general public and shall publish in a newspaper of general circulation in the County. Public notice given by publication and posting shall comply with the requirements found in C.R.S. § 12-43.4-302, as amended.

III. *Preliminary determination.* No less than 30 days after receipt of a complete application, a public hearing shall be held for a preliminary determination on the application. Further, the public hearing will not be scheduled or noticed until the results of the fingerprint-based criminal history records check completed by the Colorado Bureau of Investigations and the Federal Bureau of Investigations are received by County staff.

IV. *Final determination.* Within one (1) year of a preliminary determination, the local licensing authority shall make a final determination on the application.

V. *Results of the investigation(s).* At least five (5) days prior to a public hearing, the local licensing authority shall provide the applicant and other parties of interest a written or electronic copy of the findings of the investigation.

Sec. 7-55. New application determination.

I. *Local licensing authority preliminary determination considerations.* The local licensing authority may consider the facts and evidence adduced as a result of the investigation, as well as any other facts pertinent to the type of license for which the application has been made, including the number, type, and availability of retail marijuana establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualification of the applicant for the conduct of the type of business proposed, including but not limited to, the applicant's good moral character. An applicant is not required to demonstrate compliance with the land use code, building code, fire code, San Juan Basin Health Department rules and regulations and/or health standards, or electrical code prior to a preliminary determination.

II. *Local licensing authority final determination considerations.* Prior to issuing a final determination on the application, the local licensing authority may consider the facts and evidence adduced as a result of the investigation, as well as other facts and evidence contained in the record, to determine whether an applicant complies with the land use code, building code, and electrical code. The local licensing authority may place conditions upon a license approval that are reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the licensed premises is to be located and of the general public.

III. *Preliminary determination denial.* After a public hearing, the application may be denied if the applicant does not meet, or has failed to comply with any of the terms,

conditions, or provisions of the Retail Marijuana Code, the Retail Marijuana Rules, or any regulations under this article, except, an application shall not be denied for failure to meet land use code, building code, fire code, San Juan Basin Health Department rules and regulations and/or health standards, and electrical code requirements.

IV. *Final determination denial.* After a public hearing, the application may be denied if the applicant does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Marijuana Code, the Retail Marijuana Rules, or any applicable regulations under this article.

V. *Written determination.* A written decision with findings supporting the preliminary determination or final determination approval or denial of the application shall be issued within 30 days after the public hearing. A copy of the decision(s) shall be sent by certified mail to the applicant at the address shown in the application.

VI. *Prior to operation.* After a final determination approval, the license shall not be issued until the building in which business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment as is necessary to comply with the application provisions of this article. An inspection of the premises must be conducted prior to issuance of the license to determine that the applicant has complied with the building plans, plot plans and sketches for the building.

VII. *License duration.* All local licenses shall be valid for one year, unless duly revoked or suspended. The initial period shall begin to run on the date of issuance of a license by the state licensing authority, regardless of when the local license is issued.

Sec. 7-56. Background investigations and duty to report.

I. *Criminal justice records.* The local licensing authority may review criminal justice records furnished by a criminal justice agency, as well as other records that are relevant to a final determination on the application. The local licensing authority may use the information resulting from a criminal history record check to determine whether an applicant is qualified to hold or continue to hold a license pursuant to this chapter. If the local licensing authority considers the applicant's criminal history record, it shall also consider information submitted by the applicant, including but not limited to, evidence of rehabilitation, character references, and educational achievements.

II. *Duty to report.* Any owner, officer, manager, president or other executive officer of an entity licensed pursuant to this chapter, or who has a pending application pursuant to this chapter, must make written notification to the local licensing authority of any felony or controlled substance criminal conviction and criminal charge within ten (10) days of such person's arrest, summons, or conviction.

A licensee shall report any discovered plan or other action of any person to commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the licensed establishment to the local licensing authority. A report shall be made as soon as possible after the discovery of the action, but in no case later than 14 days after such discovery.

III. *Good Moral Character.* In determining good moral character of any applicant under this article, the local licensing authority may consider, but is not limited to, the following factors:

A. Any inconsistency between information provided by the applicant on the licensing application and the information that is discovered through due diligence by the staff in processing the application.

B. Any civil lawsuits that demonstrate a pattern of fraud and/or dishonesty or a lack of respect for legal obligations.

C. The denial, suspension, loss or revocation of any professional or business license.

D. Any violation(s) of Colorado Marijuana Enforcement Division rules for any marijuana business or establishment owned by the applicant.

E. Any criminal conviction, including misdemeanor convictions, on the licensed premises by the applicant.

F. More than one misdemeanor conviction in one year or three or more misdemeanor convictions in the last five (5) years.

G. Any felony conviction within the past fifteen (15) years or a drug-related felony at any time, unless such felony is no longer a criminal offense.

H. More than one DUI offense in the last five (5) years and/or lack of follow through on Court-ordered requirements.

Sec. 7-57. General restrictions.

I. A premises licensed under this article shall not be:

A. Located in the same location as or within 1,000 feet of a location which an application for a license was denied within the two (2) years immediately preceding the date of the application because of the nature of the use or other concerns related to location.

B. Located within 1,000 feet from any of the following uses whether such uses are inside or outside the unincorporated boundaries of the County: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary, or a residential child care facility; or (iii) a drug or alcohol rehabilitation treatment center. For purposes of this provision, the distance shall be calculated by direct measurement between the closest point of the licensed premises and the closest point on the property line of neighboring land upon which any of the above referenced uses are located. A specific finding of fact shall be made that the proposed premises is not within 1,000 feet of the above-referenced uses.

C. Located within three (3) miles of the nearest incorporated portions of the towns of Ignacio and Bayfield at the time a complete application for a new license is accepted by the County. The measurement shall be a direct line between the closest point of the licensed premises and the boundary of the closest parcel incorporated in the towns of Ignacio or Bayfield.

D. In violation of the land use code.

E. In violation of the fire code.

F. In violation of the building code.

G. In violation of any relevant rules and regulations and/or health standards adopted by San Juan Basin Health Department.

H. Located on a parcel that is delinquent on the payment of County property taxes.

I. Located in a building that has any portion of it classified as residential under the building code.

J. Currently licensed as a retail food establishment or wholesale food registrant.

II. Retail marijuana store restrictions.

A. Retail marijuana stores may be open to the public only between the hours of 8:00 am and 8:00 pm. No sale or other distribution of retail marijuana and/or marijuana products shall occur and retail marijuana stores shall be closed to the public outside of these hours.

B. All sales and distribution of retail marijuana and marijuana products by retail marijuana stores shall occur in person and only upon the licensed premises. The licensee along with any employee, agent and/or associate of the licensee is strictly prohibited from delivering any retail marijuana and/or marijuana product to any

person at any other location. No sales shall be made by telephone, internet or other means of remote purchase.

C. All displays, storage and sales of retail marijuana and marijuana products shall not be visible from the exterior of the business.

D. The consumption of any alcoholic beverage, marijuana or marijuana product is strictly prohibited on the licensed premises at any time.

E. All retail marijuana stores shall post a sign in a conspicuous location stating:

1. IT IS ILLEGAL TO SELL OR TRANSFER MARIJUANA OR MARIJUANA INFUSED PRODUCTS TO ANYONE UNDER THE AGE OF 21

2. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA OR MARIJUANA INFUSED PRODUCTS OUTSIDE OF COLORADO

3. THE POSSESSION OF MARIJUANA IS STILL A CRIME UNDER FEDERAL LAW

F. If a retail marijuana store is dually located with a medical marijuana center that allows medical marijuana patients under the age of 21 years to be on the premises, the retail marijuana store and the medical marijuana center must maintain complete and distinct physical separation of the licensed premises, including but not limited to separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

G. For compliance with the County building code, all retail marijuana stores shall be classified as Group M and shall, at a minimum, meet all applicable requirements of Group M in order to receive a building permit.

III. Retail marijuana cultivation facility restrictions.

A. If a retail marijuana cultivation facility is dually located with a medical marijuana optional premises, the licensee shall maintain visual and operational separation of the two licensed operations, including marijuana plants and marijuana inventory.

B. For compliance with the County building code, all retail marijuana cultivation facilities shall be classified as Group F and shall, at a minimum, meet all applicable requirements of Group F-1 in order to receive a building permit except for buildings and structures of an accessory character that are used exclusively for the cultivation of marijuana, which may be classified as Group U at the discretion

of the building department and then if so classified, shall meet all applicable requirements of Group U in order to receive a building permit.

IV. Retail marijuana products manufacturing facility restrictions.

A. If a retail marijuana products manufacturing facility is dually located with a medical marijuana-infused products manufacturing facility, the licensee shall maintain visual and operational separation of the two licensed operations, including marijuana product ingredients and product inventory.

B. For compliance with the County building code, all retail marijuana products manufacturing facilities shall be classified as Group F and shall, at a minimum, meet all applicable requirements of Group F-1 in order to receive a building permit.

C. If a retail marijuana products manufacturing facility engages in the production of retail marijuana concentrate using a method that utilizes a flammable solvent or flammable gas, the retail marijuana products manufacturing facility shall be classified as Group H under the County building code if it exceeds any of the thresholds set forth in Table 307.7(1) of the 2003 International Building Code and shall, at a minimum, meet all applicable requirements of Group H-1, H-2 or H-3, as determined by Table 307.7(1), in order to receive a building permit.

Sec. 7-58. Transfer or change of ownership.

I. An application for a transfer or change of ownership must be submitted when an applicant proposes to: (i) transfer its license to a different entity, (ii) sell or otherwise transfer the licensed entity to new owners, or (iii) when the licensed entity proposes to admit new owners. The license holder and proposed transferee shall apply to and receive approval from the local licensing authority prior to the transfer or change of ownership of a license.

II. An application for a transfer or change of ownership shall be submitted to the local licensing authority at least 30 days prior to any requested transfer or change on current forms provided by the County, and shall include set(s) of fingerprints for each new individual proposed owner on forms provided by the state. All application forms, checklists and supporting documents required by the state for a transfer or change of ownership must also be provided to the local licensing authority.

III. A transfer or change of ownership shall be considered pursuant to the requirements of this article, and the local licensing authority shall consider all pertinent matters affecting the qualification of the proposed licensee, including but not limited to the applicant's good moral character. A determination on transfer or change of ownership shall take place after a duly noticed public hearing, noticed in the same

manner as a new application. An application for transfer or change of ownership may be denied based on a finding of good cause.

IV. The public hearing will not be scheduled or noticed until the results of the fingerprint-based criminal history records check completed by the Colorado Bureau of Investigations and the Federal Bureau of Investigations are received by County staff.

V. No transfer or change of ownership application will be considered by the local licensing authority if, at the time the application is submitted, the licensee is under a notice of violation issued by either the local licensing authority or the state licensing authority.

Sec. 7-59. Modifications to premises.

I. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises without the prior written consent of both the local licensing authority and the state licensing authority for the same proposed modification, physical change or alteration. An application for a modification shall be submitted on current forms provided by the County, unless the modification is for the addition of an off-premises storage facility, which shall be submitted on current state forms along with all the documents required in Sec. 53(1)(h). Physical changes, alterations or modifications that require written consent, include, but are not limited to the following:

A. Any increase or decrease in the total physical size or capacity of a licensed premises;

B. Changes or modification to the interior building plans;

C. Any modification or increase in the electrical load from the licensed premises;

D. Modifications of the chemicals or chemical mixtures used or stored on the premises; or

E. Any other change in the interior of the premises that would affect the basic character of the premises.

II. Written consent from the local licensing authority shall not be required for painting and redecorating of the premises, and the replacement of furniture and equipment, which does not increase the electrical load.

III. A hearing, noticed in the same way as a new application, shall be held if (i) the proposed modification increases the square footage of the premises or electrical load by more than ten percent (10%); (ii) there has been one prior modification anytime

within the previous twelve (12) months that was granted without a hearing; or (iii) before an application for a modification may be denied. When making a determination on the modification, the local licensing authority shall determine whether the proposed modification will meet all requirements of the Retail Marijuana Code, the Retail Marijuana Rules, and all applicable regulations under this article. The local licensing authority may request a fire authority/district, the building department, Colorado State Electrical Board, San Juan Basin Health Department, or any other relevant agency or department, investigate and provide documentation on the proposed modifications. If a hearing is not held, the local licensing authority may approve the modification administratively, at a duly called meeting.

Sec. 7-60. Change of Location.

Any license granted under this article is limited to the location specified in the license application. The relocation of an existing licensed retail marijuana establishment shall require a new license. Any fees paid for a prior location may not be applied to the new location.

Sec. 7-61. Renewal.

I. Renewal applications. An application for a renewal of a license shall be submitted on current forms provided by the County. Applications shall include supporting documentation adequate to demonstrate the following:

A. *Proof of the right to possess the premises.* Documents that demonstrate proof of possession of the proposed premises may include a copy of a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.

B. *Building plan.* The plans for the interior shall include the current detailed floor plan and layout for the area under the control of the applicant and shall clearly identify the licensed premises. The plans shall be drawn to scale (1/4" = 1 ft.) and clearly reflect the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems and all grow light configurations. Where marijuana products are prepared, a detailed plan for the concentrate production and/or food preparation area must be detailed separately, where applicable. The plans for the interior shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger. All drawings submitted to the County must match the drawings and diagrams submitted to the state or such plans will not be accepted.

C. *Fees.* All appropriate fees shall be submitted with the application.

D. *County treasurer.* Proof from the County treasurer's office that all property taxes have been paid and no tax liens exist on the property where the retail marijuana establishment will be located.

E. *State taxes.* Proof that the licensee has paid all applicable excise and sales tax during the prior licensed term.

F. *Corporate good standing for the licensee.* If the licensee is an entity, evidence of good standing in the State of Colorado shall be submitted.

G. *Proof of State License for previous term.* Verification that a license was issued and granted by the state licensing authority for the prior licensed term shall be submitted.

H. *Fingerprints.* Applications shall include a set of fingerprints for each of the applicant's individual owners on forms provided by the state.

I. *Material safety data sheets.* MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises shall be submitted with the application.

J. *San Juan Basin Health Department approval.* Proof of compliance with San Juan Basin Health Department health standards, as demonstrated through San Juan Basin Health Department inspection reports.

K. *Fire authority/district approval.* Applications shall include written comments or a letter from the appropriate fire district demonstrating compliance with the fire code.

L. *Electrical approval.* Applications shall include written comments or a copy of an approved inspection report from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the premises.

M. *Additional Information.* Any additional information the local licensing authority may require to enable it to determine whether a license should be renewed, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules, or any regulations under this article.

N. *Waiver.* The local licensing authority may waive, at its sole discretion, any of the above submission requirements.

II. *Renewal application deadline.* A licensee shall apply for the renewal of an existing license to the local licensing authority by submitting a complete renewal application not less than thirty (30) days prior to the date of expiration. The local licensing

authority may waive the thirty (30) day requirement based on reasonable grounds. Renewal applications shall be materially complete and must include all attachments, checklists, verifications and supporting documents required by the County's current forms before the application will be accepted or considered. The County may refuse to accept an incomplete application. If a licensee timely applies for the renewal of an existing license, the local licensing authority may administratively continue the license, at a duly called meeting, beyond the expiration date while it completes the renewal licensing process.

III. *Hearing.* The local licensing authority may hold a public hearing on a renewal application but only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the license that would constitute good cause for non-renewal. Any hearings shall be noticed in the same manner as a new application. The local licensing authority may deny an application based on a finding of good cause. Where no hearing is held, the local licensing authority may administratively approve the renewal, at a duly called public meeting.

IV. *Conditions.* The local licensing authority may place conditions upon a renewal license that are reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the licensed premises is to be located and of the general public.

V. *Late filing.* If a license has been expired for no more than 90 days, a late renewal application may be filed upon payment of a nonrefundable late fee of five hundred dollars ($500.00). Upon payment of the fee, the licensee may continue to operate until a final decision is made on the renewal application by the local licensing authority. However, late renewal applications without good cause shown for the late filing may be grounds for denial of the license renewal. The local licensing authority shall not accept a renewal application that is filed more than 90 days past the license expiration date.

VI. *Failure to renew license prior to expiration.* A license is immediately invalid upon its expiration if the licensee fails to file a late renewal application along with all required fees. If a licensee fails to renew its license prior to its expiration, the licensee shall cease all operations at the retail marijuana establishment. If a former licensee files a renewal application 90 days after the date of expiration, the application will be treated and processed as a new license application and the licensee shall not operate the retail marijuana establishment until a new license is approved.

Sec. 7-62. Compliance with State Laws and Rules.

If the state adopts additional laws or rules that are stricter than those within this article, the additional state laws or rules shall control, and shall be deemed additional

requirements for the issuance, denial, renewal, suspension or revocation of any license issued pursuant to this article.

Sec. 7-63. Occupational Licenses.

Within ten (10) days of the state's issuance of an occupational license, as required by the Retail Marijuana Code and Retail Marijuana Rules, a licensee shall provide a copy of such license to the County, but only for persons who hold supervisory or managerial positions. The licensee shall provide the County with notice of termination of such a person holding an occupational license within ten (10) days of the termination.

Sec. 7-64. Inspections.

The licensed premises, including but not limited to any places of storage where retail marijuana is grown, stored, cultivated, sold, processed or dispensed, shall be subject to inspection by the local licensing authority, its investigators and designees, including but not limited to local fire districts and San Juan Basin Health Department, during all business hours and other times of apparent activity for the purpose of inspection or investigation. Upon request, the applicant or licensee shall timely provide the local licensing authority with records related to the business. If any part of the licensed premises consists of a locked area, such area shall be made available for inspection without delay upon request by any authorized representative of the local licensing authority. Failure to make records related to the business or a locked area of the licensed premises available for inspection upon request shall constitute a violation of this article and such violation may, in the discretion of the local licensing authority, form or constitute a basis for summary suspension or other enforcement proceedings against the licensee. This section shall not limit any inspection authority authorized under law.

Sec. 7-65. Enforcement.

I. *Unlawful acts.*

A. It is unlawful and a violation of this article and of the terms and conditions of every license issued pursuant to this article to cultivate, process, manufacture, distribute, store, test or sell marijuana, except in strict compliance with this article, the Retail Marijuana Code, the Retail Marijuana Rules, and Amendment 64.

B. It is unlawful for any person to engage in any form of business or commerce directly involving the cultivation, processing, manufacturing, distribution, storage, testing or sale of retail marijuana other than those forms of business and commerce that are expressly contemplated by this article, the Retail Marijuana Code, the Retail Marijuana Rules, and Amendment 64.

II. *Investigation.* Investigations shall be initiated by the County retail marijuana inspector after receiving a complaint or observing potential noncompliance. If the investigation demonstrates that probable cause of a violation by the licensee, its agents or employees of this article, the Retail Marijuana Code, or the Retail Marijuana Rules may exist, then a written summary of the facts and the supporting evidence shall be provided to the local licensing authority. If the local licensing authority finds such evidence persuasive, it shall issue an order to show cause why the licensee's license should not be subject to disciplinary action and such order shall include a date for a public hearing.

III. *Responsive Pleading.* A respondent shall file a written response to an order to show cause issued by the local licensing authority within thirty (30) days of the date such order is mailed to the respondent. If a respondent fails to file a written response within this time frame, the local licensing authority may enter a default judgment against the respondent. For good cause shown, the local licensing may set aside a default judgment entry within ten (10) days of such entry.

IV. *Hearing.* After hearing testimony at a public hearing noticed in the same manner as new applications, the local licensing authority may issue a verbal or written warning, a fine, a fine in lieu of suspension, or suspend or revoke a license for violation by the licensee, its agents or employees of this article, the Retail Marijuana Code, the Retail Marijuana Rules, or provisions of the license. The local licensing authority may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary for determination at a hearing. The licensee shall be given the opportunity to cross-examine those testifying, as well as provide evidence in defense or to mitigate a penalty.

V. *Sanctions.* Notice of a suspension, revocation, or other sanction shall be mailed to licensee at the address contained in the license and deemed received three (3) days from the date of mailing. A suspension shall not be longer than six (6) months. Notice of a suspension shall be posted on the premises in accordance with the requirements of the Retail Marijuana Code and Retail Marijuana Rules.

VI. *Penalty Schedule.* The penalty schedule is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis. The local licensing authority shall make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

A. *License Violations Affecting Public Safety.* This category of violation is the most severe and may include, but is not limited to, retail marijuana sales to persons under the age of 21 years, consuming marijuana on the licensed premises, retail marijuana sales in excess of the relevant transaction limit, permitting the diversion

of retail marijuana outside the regulated distribution system, possessing retail marijuana or retail marijuana product obtained from outside the regulated distribution system or from an unauthorized source, violations related to dually located medical marijuana businesses and retail marijuana establishments, failure to maintain books and records to fully account for all transactions of the business, or packaging or labeling violations that directly impact consumer safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

B. *License Violations*. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, packaging or labeling violations that do not directly impact consumer safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

C. *License Infractions*. This category of violation is the least severe and may include, but is not limited to, failure to display required badges, unauthorized modifications of the licensed premises of a minor nature, or failure to notify the local licensing authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the State Licensing Authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

D. *Mitigating and Aggravating Factors*. The local licensing authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the licensee has admitted to or was found to have engaged in.

2. Action taken by the licensee to prevent the violation (e.g., training provided to employees).

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Owner or manager is the violator or has directed an employee or other individual to violate the law.

8. Participation in state-approved educational programs related to the operation of a retail marijuana establishment.

VII. *Fine in lieu.* If the local licensing authority suspends a license for 14 days or less, the licensee may, before the date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. The local licensing authority may stay the proposed suspension, investigate the matter, and may grant the petition if it makes a finding that the factors set forth in C.R.S. § 12-43.4-601(3)(a) are satisfied. The fine accepted shall be not less than $500.00 and no more than $100,000.00. The fine shall be based on the costs and expenses for the County's investigation and hearing, as well as a penalty that is supported by the record. Upon payment of the fine, the local licensing authority shall enter a further order permanently staying the imposition of the suspension.

VIII. *Summary suspension.* A license may be summarily suspended by the local licensing authority without notice pending a hearing when the local licensing authority finds that there are objective and reasonable grounds that the licensee, its agents or employees has either willfully and deliberately violated this article, the Retail Marijuana Code, the Retail Marijuana Rules, or provisions of the license, or that the public health, safety or welfare imperatively requires emergency action. A license may be summarily suspended only after a full investigation by the County retail marijuana inspector and delivery of a written presentation of the findings to the local licensing authority. A hearing on suspension or revocation shall be held and determined promptly after a summary suspension occurs.

IX. *Illegal controlled substance.*

A. The local licensing authority's order may specify that some or all of the licensee's marijuana or marijuana-infused product is not retail marijuana or a retail marijuana-infused product and is an illegal controlled substance. The order may specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as retail marijuana or a retail marijuana-infused product.

B. The local licensing authority order may direct the destruction of any such marijuana and marijuana-infused products. If destruction is ordered, the licensee may:

1. Voluntarily surrender to the local licensing authority all of the marijuana or marijuana-infused products declared an illegal controlled substance by the order;

2. File a petition for a stay of the local licensing authority order with the La Plata County District Court within 15 days of the date of the issuance of the local licensing authority order; or,

3. If the Licensee does not either (1) voluntarily surrender all of the marijuana or marijuana-infused products declared an illegal controlled substance by the local licensing authority order as set forth in this section; or, (2) properly seek a stay of the local licensing authority order as set forth in this section, the local licensing authority shall have the authority to enter upon the licensed premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the local licensing authority order.

C. The local licensing authority shall not carry out destruction until at least 15 days following the issuance of the order has passed and the District Attorney for the 6th Judicial District has been notified of the impending destruction. The local licensing authority will not carry out the destruction if the District Attorney for the 6th Judicial District has notified the local licensing authority that the marijuana or marijuana-infused products declared an illegal controlled substance constitute evidence in a criminal proceeding and it should not be destroyed.\

D. During the period of time between the issuance of the local licensing authority order and the destruction of the marijuana or marijuana-infused products declared an illegal controlled substance, the licensee shall not sell, destroy, or otherwise let any marijuana or marijuana-infused products declared an illegal controlled substance leave the licensed premises, unless specifically authorized by the local licensing authority or Court order, and the licensee must safeguard any marijuana or marijuana product in its possession and control and fully comply with all security requirements.

E. Unless the local licensing authority otherwise orders, the licensee may cultivate, water, or otherwise care for any marijuana or marijuana-infused products declared an illegal controlled substance during the period of time between the issuance of the local licensing authority order and the destruction of the marijuana or marijuana-infused products declared an illegal controlled substance.

Sec. 7-66. Decision and Appeal.

Any decision of the local licensing authority regarding an application, renewal, suspension or revocation shall be in writing setting forth the reasons for the decision. At all times, the applicant or licensee bears the burden of proving it has not committed a violation or is qualified to hold a license by a preponderance of the evidence. The decision of the local licensing authority under this article shall constitute a final decision. Such a final decision is subject to judicial review under Colorado Rule of Civil Procedure 106(a)(4).

Sec. 7-67. Fees.

Application, license, operating and any other applicable fees shall be set by the Board of County Commissioners. All applicable fees shall be submitted with the application. If a license is not issued by the local license authority, the application fee is non-refundable, but the operating fees will be refunded to the applicant. However, once a license is issued, all fees are non-refundable and will not be prorated should a licensee cease operations at the licensed premises for any reason during the license term. Fees for new and renewal licenses may be adjusted by the Board of County Commissioners at any time and will become effective upon existing retail marijuana establishments during the succeeding license period. Applicants shall also pay any fees charged by other agencies, such as local fire districts and San Juan Basin Health Department, to review and approve application materials and/or to perform inspections. Failure to pay such fees shall be grounds for denial of any application submitted pursuant to this article.

Sec. 7-68. Release, indemnification and entitlement.

I. *Release*. By accepting a license issued pursuant to this article, the licensee releases the County, its elected officials, employees, officers, attorneys, and agents from any and all liability for any and all known, unknown or unforeseen damages, injuries, losses and liabilities directly or indirectly related to the licensee's retail marijuana operations, including but not limited to any claim that results from any arrest or prosecution of the licensee, its employees, clients or customers, for a violation of state or federal law, rules, or regulations.

II. *Indemnification*. By accepting a license issued pursuant to this article, the licensee, jointly and severally, if more than one, indemnifies and holds harmless the County, its employees, officers, elected officials, insurers, attorneys and agents from any and all

suits, actions, claims, judgments, obligations or liabilities of every nature and description which arise out of or in any manner are connected with the operation of a retail marijuana establishment that is the subject of the license. Furthermore, the licensee agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees; however, such agreement does not make the licensee an agent or employee of the County.

III. *Entitlement.* No person shall have any entitlement or vested right to licensing under this article. Licenses issued pursuant to this article are a revocable privilege subject to the will, oversight and scrutiny of local and state authorities. This article, the Retail Marijuana Code, and the Retail Marijuana Rules may be changed or amended from time to time. Such changes may preclude the continuance, renewal or further issuance of a local retail marijuana license at any given location. As of the date this article was enacted, the cultivation, use, possession, distribution and sale of marijuana is illegal under federal law, and any person who engages is such activities does so at their own risk. Any license issued pursuant to this article does not provide any exception, defense or immunity to any person in regard to any potential criminal liability a person may have for the cultivation, use, possession, distribution and sale of marijuana.

IV. *Further affirmation.* The County may require an applicant as part of the application and review process to affirm in writing the requirements of this section.

[Sec. 7-69 – Sec. 7-79 are reserved.]