

La Plata County Medical Marijuana Licensing Regulations

Sec. 1. Applicability.

All licensees must comply with the regulations of this chapter, as well as all other applicable state laws, rules and regulations. A person must obtain licenses pursuant to this chapter and the Colorado Medical Marijuana Code prior to commencement of a medical marijuana operation. All terms in this chapter shall have the same meaning and definition as in the Colorado Medical Marijuana Code and all rules duly adopted by the state licensing authority.

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

The medical marijuana licensing authority for the county shall be an individual appointed by the board of county commissioners and shall serve at the pleasure of the board. The local licensing authority may issue optional premises cultivation licenses and medical marijuana-infused products manufacturing licenses.

Sec 3. License restrictions.

- (1) A license shall not be issued and shall not be held by:
 - (a) A person who had not paid the annual fee;
 - (b) A person whose criminal history indicates that he or she is not of good moral character;
 - (c) A corporation, whose officer, director, or stockholder's criminal 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 criminal history indicates he or she is not of good character and reputation satisfactory to the local licensing authority;
 - (e) A person under twenty-one 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 has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance;

- (h) A Sheriff's Office employee, police officer, prosecuting officer, or a county government employee;
- (i) A person who operates a primary caregiver facility on the same parcel;
- (j) A person who operates a retail food establishment or wholesale food establishment on the same parcel;
- (k) A person who is not in possession of the licensed premises throughout the duration of the license period.

Sec. 4. New license applications.

(1) An application for a new license shall be submitted on forms provided by the county. Applications shall include supporting documentation adequate to demonstrate the following:

- (a) *Proof of the right to possess physical 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 food products are prepared, a detailed plan for the food preparation area must be detailed separately. 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 submitted on paper 11" x 17" or larger.
- (c) *Location plan, plot plan.*
 - a. The location plan shall show all uses within 50 ft of the licensed premises and any of following uses that are located within 1,000 ft 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 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 and Bayfield. The location plan shall be submitted on paper 11" x 17" or larger.

- b. 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 submitted on paper 11" x 17" or larger.
- c. 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 11" x 17" or larger.
- (d) *Fees.* All appropriate licensing fees shall be submitted with the application.
- (e) *Fingerprints.* Applications shall include a set of fingerprints on forms provided by the state.
- (f) *Corporate formation documents for the proposed licensee.*
- (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.

(2) The licensing clerk shall have 10 business days to review the application to determine whether the submittal is complete. If the application is incomplete, the licensing clerk shall contact the applicant in writing and outline the application's deficiencies.

(3) Prior to the local licensing authority's final determination of 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) *Electrical installation comments.* Written comments or a letter from an inspector from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the proposed premises.
- (c) *Proof of land use approval.* Documents that demonstrate proof of land use approval may include the minutes from the hearing approving the land use.

- (d) *San Juan Basin Health Department approval.* For medical marijuana-infused products manufacturing licenses, proof of compliance with San Juan Basin Health Department standards. Documents that demonstrate compliance with San Juan Basin Health Department standards may include a copy of an initial/remodel inspection and compliance report or executed letter from San Juan Basin Health Department demonstrating compliance with relevant health standards or confirmation that San Juan Basin Health Department standards do not apply.
- (e) *Additional license.* For optional premises, an approved medical marijuana-infused products manufacturing license or medical marijuana center license.

Sec. 5. New application review.

- (1) *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. 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.
- (2) *Public hearing notice.* Notice for a public hearing shall be published and posted by the local licensing authority not less than ten 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(2) and (3), as amended.
- (3) *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.
- (4) *Final determination.* Within one year of a preliminary determination, the local licensing authority shall make a final determination on the application.
- (5) *Concurrent review request.* Prior to the local licensing authority's preliminary determination, the local licensing authority, or an applicant with local licensing authority approval of concurrent review, may request concurrent review by the state licensing authority.

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

Sec. 6. New application determination.

(1) *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 outlets 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 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, or electrical code prior to a preliminary determination.

(2) *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, fire code, San Juan Basin Health Department rules and regulations, and electrical code.

(3) *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, any rules promulgated pursuant to the Medical Marijuana Code, or any regulations under this chapter, 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 electrical code requirements.

(4) *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, any rules promulgated pursuant to the Medical Marijuana Code, or any regulations under this chapter.

(5) *Written determination*. A written decision with findings supporting the preliminary determination and 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.

(6) *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 chapter.

(7) *Permit 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 permit by the State of Colorado.

Sec. 7. Background investigations and duty to report.

(1) *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 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.

(2) *Duty to report.* Any person or any person with an executive role of a corporate 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 days of such person's arrest, summons, or conviction.

Sec. 8. General restrictions.

(1) A licensed premises 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 last two years 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 miles of the nearest incorporated portions of the towns of Ignacio and Bayfield. 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 and Bayfield.

- (d) For the purposes of paragraph (b) and (c) of this subsection, the licensed premises shall not be out of compliance due to later annexation by a municipality or a later change in surrounding use.
- (e) In violation of the land use code;
- (f) In violation of the fire code;
- (g) In violation of the building code;
- (h) In violation of any relevant rules and regulations adopted by San Juan Basin Health Department; and
- (i) Located on a parcel that is delinquent on the payment of County property taxes.

(2) A licensed facility that is contained in a mixed occupancy building shall not use gases for the purpose of cultivating or processing medical marijuana.

Sec 9. Transfer of ownership.

The license holder shall apply to and receive approval from the local licensing authority prior to the transfer of ownership of a license. A transfer of ownership shall be considered pursuant the requirements this chapter. A hearing must be held prior to denial of the application or if there are allegations against the proposed licensee that would constitute good cause. A hearing shall be noticed in the same manner as a new application and an application may be denied based on a finding of good cause. If a hearing is not held, the local licensing authority may approve the transfer application administratively.

Sec. 10. Modifications to premises.

(1) 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 the local licensing authority. 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) 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.

(2) 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.

(3) A hearing, noticed in the same way as a new application, shall be held if the proposed modification increases the square footage of the premises or electrical load by more than ten percent, there has been one prior modification within the previous year that was granted without a hearing, or the 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, all rules promulgated pursuant to the code, and all regulations under this chapter. 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.

Sec. 11 Renewal.

(1) Renewal applications. An application for a renewal of a license shall be submitted on forms provided by the county. Applications shall include supporting documentation adequate to demonstrate the following:

(a) *Proof of the right to possess the premises.*

(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 food products are prepared, a detailed plan for the food preparation area must be detailed separately. The plans for the interior shall be submitted to on paper 11" x 17" or larger.

(c) *Fees.* All appropriate licensing fees shall be submitted with the application.

(d) *Additional license.* For optional premises, a current approved medical marijuana-infused products manufacturing license or medical marijuana center license.

- (e) *Corporate good standing for the licensee.* If the licensee is a corporation, evidence of good standing in the State of Colorado shall be submitted.
- (f) *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.
- (g) *San Juan Basin Health Department Approval.* For medical marijuana-infused products manufacturing licenses, proof of compliance with San Juan Basin Health Department standards, as demonstrated through San Juan Basin Health Department inspection reports.
- (h) *Fire authority/district approval.* Applications shall include written comments or a letter from the appropriate fire district demonstrating compliance with the Fire Code.
- (i) *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 proposed premises.

(2) *Renewal application deadline and public hearing.* A licensee shall apply for the renewal of an existing license to the local licensing authority not less than forty-five (45) days prior to the date of expiration. The local licensing authority may waive the 45 day requirement based on reasonable grounds. A hearing shall be held on the application and shall be noticed in the same manner as a new application. An application may be denied based on a finding of good cause.

(3) *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 late application fee of five hundred dollars (\$500). Upon payment of the fee, the licensee may continue to operate until a final decision is made on the application by the local licensing authority. The local licensing authority shall not accept a renewal application that is filed more than 90 days past the license expiration date and the licensee shall cease cultivation, manufacturing, distributing and selling of any and all medical marijuana until all required licenses have been obtained.

Sec. 12. Occupational Licenses.

Within ten days of the state's issuance of an occupational license, as required by the Colorado Medical Marijuana Code and rules, a licensee shall provide a copy of such license to the County. The licensee shall provide the county with notice of termination of a person holding an occupational license within ten days of such termination.

Sec. 13 Inspections.

The licensed premises, including any places of storage where medical marijuana is grown, stored, cultivated, sold or dispensed, shall be subject to inspection by the local licensing authority, its investigators and designees, during all business hours and other times of apparent activity for the purpose of inspection or investigation. This section shall not limit any inspection authority authorized under law.

Sec. 14. Enforcement.

(1) *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 chapter, the Colorado Medical Marijuana Code, or the rules promulgated pursuant to the Code 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.

(2) *Hearing.* After hearing testimony in a public hearing, the local licensing authority may suspend or revoke a license for violation by the licensee, its agents or employees of this chapter, the Colorado Medical Marijuana Code, the rules promulgated pursuant to the Code, 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.

(3) *Sanctions.* Notice of a suspension, revocation, or other sanction shall be mailed to licensee at the address contained in the license. A suspension shall not be longer than six months. Notice of a suspension shall be posted on the premises in the manner prescribed in the rules promulgated pursuant to the Code.

(4) *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 license 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 five hundred dollars (\$500) and no more than one hundred thousand dollars (\$100,000). 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.

(5) *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 the Colorado Medical Marijuana Code, the rules promulgated pursuant to the Code, 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 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.

(6) *Illegal controlled substance.* 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. The local licensing authority order may direct the destruction of any such marijuana and marijuana-infused products. If destruction is ordered, 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.

Sec. 14. License fees.

License fees shall be as set forth in Appendix A to the La Plata County Code. License fees shall be submitted at the time of application and are non-refundable.