ABSTRACT
Summary of the committee research and recommendations based on its work between October 1, 2017 and January 26, 2018.

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Jerry Nulton
Carol Ward
It is with deep gratitude that the committee recognizes the contributions of the individuals who shared their time and experience with us, without them, this report would lack depth and detail. We would like to thank the following individuals:

- Jim Dougherty, Municipal Research Services Center, Washington State
- Kevin Bommer, Director of the Colorado Municipal League
- Jim Burak, Chief of Colorado’s Marijuana Enforcement Division
- Eric Bergman, Policy Director at Colorado Counties, Inc.
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- Dan Tartakoff, Office of Legislative Public Affairs, Maine
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- Al French, Chairman of the Board of Commissioners, Spokane County, Washington
- Ron Cook, County Commissioner, Prowers County, Colorado
- Dee Roberts, Clerk/Treasurer, South Bend, Washington
- Nick Little, Director of Building & Planning, Cowlitz County, Washington
- Kristi Kelly, Marijuana Industry Group, Denver, Colorado
- Jason Trowbridge, Realtor & Medical Marijuana Caregiver, Sanford, Maine
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- Butch Knowlton, Building Inspector, La Plata County, Colorado
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- Dan Murphy, Planning Department, La Plata County, Colorado
- Lieutenant Ryan Engle, La Plata County Sheriff’s Office, Colorado
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HEALTH AND SAFETY AND NEIGHBORHOOD NUISANCE ABATEMENT

Sections:
6.25.010  Purposes.
6.25.020  Unlawful property nuisance – Private property.
6.25.030  Unlawful property nuisance – Public property.
6.25.035  Repealed.
6.25.040  Declaration of public nuisance.
6.25.050  Existence of public nuisance, hearing, and voluntary abatement.
6.25.055  Nuisance abatement – Marijuana.
6.25.060  Public agency inspections.
6.25.065  Administrative public nuisance abatement by city.
6.25.070  Summary abatement.
6.25.080  Nuisance abatement lien (Gov. Code Section 38773.1).
6.25.085  Nuisance abatement fines.


6.25.010 Purposes.
The purposes of this chapter are: (1) to protect the city’s residents from threats to health and safety that result from specified nuisance conditions and (2) to promote an attractive and desirable community by identifying and providing a means to abate specified nuisance conditions that, if permitted to continue, will cause substantial diminution of the enjoyment, use and value of affected properties. [Ord. 389, 2011]

6.25.020 Unlawful property nuisance – Private property.
It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of private property in the city to maintain or to allow to be maintained such property in such manner that any of the following conditions are visible from a public street or right-of-way and/or are found to exist thereon, except as may be allowed by this code:

(1) Unlawful Outdoor Storage.

   (a) The accumulation of abandoned, discarded, or dilapidated objects which constitutes a threat to the general public’s health, safety or welfare, including but not limited to: junked, abandoned, wrecked, dismantled or inoperative vehicles; vehicle parts and equipment; machine parts; scrap
City of Biggs, CA – Chapter 6 – Nuisance Ordinance – Pages 2-6 and 10-14 were removed as they are not relevant to this report. For the full file go to:
http://www.codepublishing.com/CA/Biggs/html/Biggs06/Biggs0625.html
sufficient cause to abate the nuisance, the mayor/council shall make written findings, and the mayor shall sign an order, ordering the owner or other person(s) having charge or control of the premises to abate the nuisance by rehabilitation, repair, removal or demolition in the manner and by the means specifically set forth in the council order. The order shall also contain authorization for the city to abate the nuisance pursuant to this chapter if, in the mayor's/council's discretion, it is determined that abatement by the city is warranted. The order shall set forth the times within which the work shall be commenced and completed and shall be mailed to the owner by certified mail and shall also be posted upon the premises.

(10) Abatement by City. Upon expiration of the time for abatement provided for in the council order, the city shall inspect the premises for compliance with the order, subject to the requirements of BMC 6.25.060. If, upon inspection or observation by the city, the nuisance has not been completely abated, and subject to authorization by the city council, code enforcement officials or other designated city representatives shall cause the public nuisance to be abated through a civil, administrative, or other permissible procedure.

(11) Right of Contractor for Removal. When the city has contracted with or granted a franchise to any person to carry out the purpose of this chapter, such person(s) shall be authorized to enter private or public property to remedy the violation, thereby allowing the property to comply with this code.

(12) Finding of No Public Nuisance. If the mayor/city council determines that the property owner is not responsible for the public nuisance, the city shall not assess removal and/or administration costs against the property owner.

(13) Alternative Means of Enforcement. This chapter is not the exclusive regulation of code violations. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the state or any other legal entity or agency having jurisdiction. Nothing in this chapter shall be deemed to prevent the city from authorizing the city attorney to commence any other available civil or criminal proceedings to abate a public nuisance under applicable provisions of state law as an alternative to proceedings set forth in this chapter. [Ord. 389, 2011]

6.25.055 Nuisance abatement – Marijuana.

(1) Marijuana Cultivation/Storage Nuisance Circumstances. Notwithstanding any provision in this chapter, the abatement measures set forth in subsection (2) of this section shall be utilized in the following nuisance circumstances: marijuana, or the cultivation of marijuana, visible from the street or neighboring property; and the odor of marijuana detected by any member of the public.

“Marijuana” shall be as defined in California Health and Safety Code Section 11018, and shall include "medical marijuana" as recommended by a licensed physician in strict accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program.

“Marijuana cultivation” means the planting, growing, harvesting, drying, or processing of all marijuana, including medical marijuana.

(2) Abatement Procedure.

(a) The city, through a code enforcement officer or other designees, shall issue a declaration of public nuisance requiring abatement within 48 hours after the posting of that declaration in a conspicuous place at the location of the nuisance. The declaration shall contain the following information:
(i) The location of the premises.

(ii) A description of the specific condition(s) which represent a code violation, and the evidence relied upon to determine the existence of a code violation, except that the city may withhold the identity of a witness if that person requests and if such action is reasonable under the circumstances.

(iii) The date and time when abatement must be completed to avoid any further action from the city.

(iv) A statement that, to avoid the imposition of a civil penalty under subsection (3) of this section, the offending condition(s) must be abated by the deadline set forth in the declaration.

(v) A statement that, if the nuisance is not abated by the deadline set forth in the declaration, the city will issue a notice entitled, “NOTICE OF HEARING TO DETERMINE EXISTENCE OF PUBLIC NUISANCE AND TO ABATE IN WHOLE OR PART,” at which time the city will present evidence of the listed code violations and request the mayor or, at the mayor’s discretion, the city council, order the public nuisance be abated and impose a civil penalty of $1,000 per day for each day that the nuisance remains unabated.

(vi) A statement that, in any administrative or court proceeding to enforce the abatement order, the prevailing party is entitled to recover reasonable attorneys’ fees from the other party or parties to the action, if the city elects, at the initiation of an individual action or proceeding, to seek recovery of its own attorneys’ fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys’ fees to a prevailing party exceed the amount of reasonable attorneys’ fees incurred by the city in the action or proceeding.

(b) Failure to Voluntarily Abate Nuisance. If after the expiration of the notice period the nuisance has not been abated, the city shall issue a notice, entitled, “NOTICE OF HEARING TO DETERMINE EXISTENCE OF PUBLIC NUISANCE.” This notice shall be in substantially the same form as the notice described in BMC 6.25.050(6). The hearing shall be before the mayor or, at the mayor’s discretion, the city council, and shall be held not less than five days after service of the notice on the owner/occupier of the property. The hearing shall be public; however, if the owner/occupier believes that the hearing should not be public, the owner/occupier shall notify the mayor of the reason(s) therefor at least three days prior to the hearing. The request shall be considered.

(c) Service of Notice. The notice shall be served, either personally or by certified mail, on the owner of the property and, if applicable, the occupier of the property. The notice shall also be posted on the subject property.

(d) Hearing on Notice. At the hearing, the city shall present evidence of unlawful cultivation of marijuana to the mayor/city council. The owner/occupier, if present, shall also be entitled to present evidence. Upon conclusion of the hearing, the mayor/city council shall prepare a written order, which shall include findings of fact and an order. If the mayor/city council finds a public nuisance exists, the officer shall direct the owner/occupier to abate the public nuisance by a date certain. The order shall also contain authorization for the city to abate the nuisance pursuant to this chapter if, in the mayor’s/council’s discretion, it finds that abatement by the city is warranted. The order shall set forth the times within which the work shall be commenced and completed and shall be mailed to the owner/occupier by certified mail.
(e) Abatement by City. If, upon finding a violation of this section exists, the owner/occupier fails to abate the nuisance as ordered by the mayor/city council, the city shall take steps to obtain and execute an inspection/administrative abatement warrant pursuant to this chapter.

(f) Finding of No Public Nuisance. If the mayor/city council determines that the property owner is not responsible for the public nuisance, the city shall not assess removal and/or administration costs against the property owner.

(3) Civil Penalties and Attorneys’ Fees.

(a) Civil Penalty. Fines in the amount of up to $1,000 per day shall be imposed upon the property owner/occupier as deemed in the above-described order for each day the property remains in violation of this section upon expiration of the time for abatement set forth in a final order under subsection (2)(d) of this section. For good cause, the mayor/council may waive all or part of the penalty.

(b) Attorneys’ Fees. In any administrative or court proceeding to enforce the abatement order, the prevailing party is entitled to recover reasonable attorneys’ fees from the other party or parties to the action, if the city elects, at the initiation of an individual action or proceeding, to seek recovery of its own attorneys’ fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys’ fees to a prevailing party exceed the amount of reasonable attorneys’ fees incurred by the city in the action or proceeding. [Ord. 407 § 4, 2016; Ord. 395 § 6, 2012; Ord. 389, 2011]

6.25.060 Public agency inspections.

(1) Inspection of Premises. Code enforcement officers shall request consent of the owner/occupier of private property located in the city believed to be in violation of this chapter to enter and inspect for such violation(s). If consent is not freely given, code enforcement officers shall first obtain an inspection warrant pursuant to Code of Civil Procedure Section 1822.50 et seq. prior to entry onto private property.

(a) Exception for Violations in Plain View. Nothing in this chapter shall preclude code enforcement officers from performing warrantless inspections of areas in plain view of such officers.

(b) Exception for Pervasively Regulated Activities. Nothing in this chapter shall preclude code enforcement officers from performing routine warrantless inspections of pervasively regulated activities.

(c) Exception for Open Fields. Nothing in this chapter shall preclude code enforcement officers from performing warrantless inspections of open fields.

(d) Exception for Exigent Circumstances. Nothing in this chapter shall preclude code enforcement officers from performing warrantless inspections under exigent circumstances.

(2) Form of Inspection Warrant. The inspection warrant shall contain, at a minimum, the following information:

(a) Description of Premises. The warrant shall include a description of the property onto which the city seeks entry, including, if possible, the assessor’s parcel number of the property, as well as the specific area(s) of entry on the subject property (i.e., yard, dwelling house, outside structures, etc.).
ORDINANCE NO. __3.301__, Series of 2012

TITLE: A BILL FOR AN ORDINANCE TO AMEND TITLE 13 OF THE PARKER MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW CHAPTER 13.15 CONCERNING THE PROHIBITION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES IN THE TOWN OF PARKER

WHEREAS, Colorado voters approved an amendment to the State Constitution, Article XVIII, Section 16, which allows in part for the retail sale and cultivation of marijuana in the State of Colorado;

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution authorizes local governments, such as the Town of Parker, to "prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores through the enactment of an ordinance;” and

WHEREAS, the Town Council has carefully considered the provisions of Article XVIII, Section 16, of the Colorado Constitution, and the impact of operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses on the health, safety and welfare of the Town and the inhabitants thereof, and has determined, as an exercise of its local land use authority, that such marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores shall not be located within the corporate limits of the Town.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Parker Municipal Code is amended by the addition thereto of a new Chapter 13.15, entitled "Medical Facilities and Stores," to read as follows:

CHAPTER 13.15

Medical Facilities and Stores

13.15.010 Findings and legislative intent.

The Town Council makes the following legislative findings:

(1) The Town Council finds and determines that Article XVIII, Section 16, of the Colorado Constitution specifically authorizes in part that the governing body of a municipality may enact an ordinance to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores.
(2) The Town Council finds and determines after careful consideration of the provisions of Article XVIII, Section 16, of the Colorado Constitution, and after evaluating, inter alia, the potential secondary impacts associated with the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores, that such land uses have an adverse effect on the health, safety and welfare of the Town and the inhabitants thereof.

(3) The Town Council therefore finds and determines that as a matter of the Town's local land use and zoning authority as a home rule municipality pursuant to the provisions of Article XX, Section 6 of the Colorado Constitution, and consistent with the authorization provided by the Article XVIII, Section 16, of the Colorado Constitution, that no suitable location exists within the corporate limits of the Town of Parker for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses.

13.15.020 Authority.

The Town Council hereby finds, determines and declares that it has the power and authority to adopt this Article pursuant to:

(1) Article XVIII, Section 16, of the Colorado Constitution;

(2) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;

(3) The powers contained in the Town of Parker Home Rule Charter.

(4) The Local Government Land Use Control Enabling Act, article 20 of title 29, C.R.S.;

(5) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);

(6) Section 31-15-103, C.R.S. (concerning municipal police powers);

(7) Section 31-15-401, C.R.S. (concerning municipal police powers);


13.15.030 Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:
Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.
13.15.040 Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores' licenses prohibited.

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the Town, and all such uses are hereby prohibited in any location within the Town, or within any area hereinafter annexed to the Town.

13.15.050 Penalty.

A violation of the provisions of this Chapter shall be punishable as follows:

(1) By a fine of not more than nine hundred ninety-nine dollars ($999.00), or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment;

(2) Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate offense;

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

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

13.15.060 Effective date.

The ordinance codified in this Chapter shall take effect upon the effective date of Article XVIII, Section 16, of the Colorado Constitution.

**Section 2.** Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the publication of an agenda that contains the title to this Ordinance in a newspaper of local circulation prior to first and second reading of this Ordinance creates a financial burden on the Town and that the title to this Ordinance was posted in two public places two days before the Town Council meeting as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

**Section 3.** Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a
court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this 26th day of November, 2012.

David Casiano, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this 7th day of December, 2012.

David Casiano, Mayor

ATTEST:

Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney
BOARD OF COUNTY COMMISSIONERS
COUNTY OF COWLITZ, STATE OF WASHINGTON
ORDINANCE NO. 14-067

Repealing Chapter 18.01 interim regulations and adopting Chapter 18.76
"Recreational Marijuana" of the Cowlitz County Code establishing permanent
official controls on the production, processing and retailing of recreational marijuana

WHEREAS, pursuant to Article 11, Section 11 Washington State Constitution and RCW 36.70.010 & -.750, RCW 36.32.120, RCW 69.51A.140, and other lawful authority the Board of Cowlitz County Commissioners, the Board has the authority to enact zoning controls and development regulations pertaining to the production, processing, or dispensing of cannabis or cannabis products within its jurisdiction; and

WHEREAS, pursuant to said laws and authority, the Board adopted Ordinance No. 13-154 by emergency enactment, and Ordinance 14-016 and Chapter 18.01 of the County Code establishing interim land use controls on recreational marijuana production, processing and retail sales; and

WHEREAS, pursuant to such laws and interim enactment, the Board establishing a working group to develop permanent controls to present to the Planning Commission to consider extending, amending or rescinding these interim land use controls; and

WHEREAS, the Planning Commission reviewed and considered the working group work product and has recommended adoption of permanent land use controls on recreational marijuana production, processing and retail sales;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COWLITZ COUNTY AS FOLLOWS:

Section 1. General Findings.

1. The purpose of this ordinance is to establish zoning regulations related to the siting of marijuana businesses allowed under Initiative 502 in unincorporated Cowlitz County.

2. Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the Washington State Liquor Control Board.

3. The SEPA Responsible Official issued a threshold decision for these proposed permanent regulations on July 2, 2014 and comments were accepted through July 16, 2014.

4. On June 25, 2014, the Cowlitz County Planning Commission held a workshop and public hearing on the proposed permanent regulations and on July 11, 2014, transmitted the Commission’s adopted findings on and recommendation of adoption of permanent regulations.

5. Marijuana remains illegal under the federal Controlled Substances Act, 21 U.S.C. §801 et seq. State and local regulations do not preempt federal law. Individuals and businesses involved in the production, processing, sales, and possession of marijuana could still be subject to prosecution under federal law. Local zoning and other regulations are not
associated with and are not a defense against a violation of federal law, and are not associated with and are not a defense against violation of state law or administrative licensing of recreational marijuana.

6. While marijuana is still classified as a controlled substance under state law in RCW 69.50.204(c)(22), the adoption of Initiative 502 allows it to be produced, processed and sold under the strict licensing program established by the Washington State Liquor Control Board. Recognizing that the State is proceeding with licensing and regulation of the production, processing and retail of marijuana, the Board believes it necessary to adopt permanent local regulations for these facilities to further protect the public health, safety and welfare of its citizens. Cowlitz County makes no representations or commitments about the lawfulness of the facilities and leaves all issues relating to the legality and licensing of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction.

7. This ordinance provides reasonable regulations to address compatibility of uses, screening, safety standards and other requirements consistent with the County’s desire to provide efficient and effective development and reduce conflicts with other uses.

8. Nothing in this ordinance is intended nor shall be construed to authorize or approve medical marijuana collective gardening or medical marijuana cooperatives.

9. Nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law.

Section 2. Repeal and Adoption.

Ordinance Nos. 13-154 and 14-016, and the official interim controls of Chapter 18.01 of the Cowlitz County Code, entitled “Recreational Marijuana” are hereby repealed, and a new Chapter 18.76, entitled “Recreational Marijuana”, attached hereto as “Exhibit A” and incorporated herein by this reference, is hereby adopted in its entirety.

Section 3. Codification.

Only the Code amendments in Chapter 18.76 and its sections 18.76.010 through and including 18.76.090, as set forth in “Exhibit A” attached hereto, shall be codified from this Ordinance and that Chapter 18.01 shall be repealed and redacted from the Code.

Section 4. Savings Clause.

Such repeals and amendments shall not be construed as affecting any existing right acquired under the ordinances or portions of ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinance or portions or sections of ordinances previously repeal or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances.

Ordinance Adopting CCC 18.76
Recreational Marijuana
Section 5. Severability.

The provisions of this ordinance are declared separate and severable. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, paragraph subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraph subsections, clauses or phrases may subsequently be found to be unconstitutional or invalid.

Section 6. Effective Date.

These regulations are in the public interest and shall take effect immediately upon adoption by the Board of County Commissioners.


APPROVED THIS 29th DAY OF July 2014

ATTEST:

Tiffany Ostheim, Clerk of Board

Michael A. Karnofski, Chairman

James R. Misner, Commissioner

Dennis P. Weber, Commissioner

APPROVED AS TO FORM, ONLY:

Sue I. Baur, Prosecuting Attorney

Douglas E. Jensen, Chf. Civil Deputy

Ordinance Adopting CCC 18.76
Recreational Marijuana
Chapter 18.76
Recreational Marijuana

Sections:
18.76.010 Title.
18.76.020 Purpose.
18.76.030 Definitions.
18.76.040 Applicability.
18.76.050 Authority and administration.
18.76.060 Location of Recreational Marijuana Facilities.
18.76.070 Development Standards
18.76.080 Review Process and Administration
18.76.090 Violations - Penalties
18.76.100 Severability
18.76.110 Effective date

18.76.010 Title.
The ordinance codified in this chapter shall be known as the "Cowlitz County
Recreational Marijuana Code."

18.76.020 Purpose.
A. To acknowledge the passage and enactment of Initiative 502 and
    associated licensing procedures for recreational marijuana by the state of
    Washington by developing local review standards for the placement and
    development of recreational marijuana uses.
B. Minimize potential adverse impacts to the citizens of Cowlitz County by
    developing land use regulations regarding the location and development
    standards for recreational marijuana land uses.
C. Provide a consistent and predictable path for the development of
    recreational marijuana land uses and encourage their placement in areas
    where adverse impacts can be minimized.
D. Nothing in this ordinance shall be construed to supersede Washington
    state law prohibiting the acquisition, possession, manufacture, sale, or use
    of marijuana in any manner not authorized by Chapter 69.51A RCW, or
    Chapter 69.50 RCW.

18.76.030 Definitions.
For the purposes of this chapter the following terms are defined:

Agriculture Area(s) means those area zoned by the Cowlitz County Land Use
Ordinance as Agriculture, Agriculture-38, and Agriculture-Industrial. The term
"Agriculture Areas" also includes areas classified by the Comprehensive Plan
as Agriculture and Agriculture-Industrial. In the event of a conflict between
the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Day means days that the office of the Director is open for business, unless otherwise specified.

Director means the Director of Building and Planning Department, or his/her designee.

Industrial Area(s) means those area zoned by the Cowlitz County Land Use Ordinance as Heavy Manufacturing and Light Manufacturing. The term "Industrial Areas" also includes areas classified by the Comprehensive Plan as Heavy Industrial and Light Industrial. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Marijuana means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Marijuana Infused Products means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

Marijuana Paraphernalia does not include drug paraphernalia, as defined in RCW 69.50.102, for introducing into the human body any controlled substance, as defined in RCW 69.50.101, other than marijuana.

Marijuana Processor means a person or facility licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. All marijuana processors are classified as either a Type 1 or a Type 2 processor (see below).

Marijuana Processor, Type 1 means a marijuana processor that is limited to drying, curing, trimming, and packaging marijuana.

Marijuana Processor, Type 2 means a marijuana processor that extracts concentrates, infuses products, or involves mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging.

Marijuana Producer means a person or facility licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers. All marijuana producers are licensed by the Washington State Liquor Control Board as a Tier 1, Tier 2, or Tier 3 producer as identified by WAC 314-55.

Marijuana Retailer means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
Recreational Marijuana Facility is a general term which includes marijuana retailer, Marijuana Processor, and/or Marijuana Producer. A recreational marijuana facility includes the structure(s) in which the recreational marijuana land use operates, as well as the associated parking lot area. Remote Areas means those area zoned by the Cowlitz County Land Use Ordinance as Forestry Recreation. The term “Remote Areas” also includes areas classified by the Comprehensive Plan as Forestry-Open Space. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Retail Outlet means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

Rural means those area zoned by the Cowlitz County Land Use Ordinance as Rural Residential -1, -2, and -5. The term “Rural Areas” also includes areas classified by the Comprehensive Plan as Rural Residential-1, -2, and -5. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Setback generally means the required distance from any structural part of a recreational marijuana facility to either a property line and/or to a neighboring residence. Specific measurement criteria are typically identified along with specific setback requirements.

Structure means that which is built or constructed, an edifice or building of any kind or any works erected, built up or composed of parts joined together in some definite manner.

THC Concentration means the percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant cannabis, or per volume or weight of marijuana product product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

Urban means those areas zoned by the Cowlitz County Land Use Ordinance as Urban Residential, Suburban Residential, Multiple Family, Neighborhood Commercial and Urban Commercial. The term “Urban Areas” also includes areas classified by the Comprehensive Plan as Urban Residential (High and Low Density), Suburban Residential, and Commercial. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Usable Marijuana means dried marijuana flowers. The term “useable marijuana” does not include marijuana-infused products.

18.76.040 Applicability.
1. This ordinance shall apply to all unincorporated areas of Cowlitz County.
2. The requirements of this chapter shall apply to all recreational marijuana related land uses, including the production, processing, and retail sales of marijuana, and marijuana infused products and the expansion and/or alteration of any existing recreational marijuana related facilities.
3. No use that constitutes or purports to be a marijuana producer, marijuana processor, marijuana retailer, or any medical marijuana facility that was engaged in that activity prior to the enactment of this chapter shall be deemed to have been a legally established and that use shall not be entitled to claim legal nonconforming status.

18.76.050 Authority and administration.
All applications under this chapter shall be made to the Cowlitz County Building and Planning Department. The Director or his/her designee shall administer, interpret, and enforce the provisions of this chapter and shall provide such forms and establish such procedures as may be necessary to administer this chapter.

18.76.060 Location of Recreational Marijuana Facilities
A. This section identifies the location requirements and required review process for recreational marijuana land uses.

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Matrix Key:
A: Administrative review, see section 18.76.080(B)(1)
S: Special Use Review; see section 18.76.080(B)(2)
N: Not allowed

B. Should any recreational marijuana facility conduct operations in more than one location, individual recreational marijuana approvals for each location
shall be required. Each location shall follow the appropriate process and meet the appropriate development standards for that particular location.

C. All marijuana related land uses are subject to the land use provisions of the Cowlitz County Land Use Ordinance, Chapter 18.10, and nothing in this ordinance is intended to supersede those regulations. For those recreational marijuana land uses that do not meet the use requirements for a particular zoning designation, a special use permit shall be required following the process prescribed in CCC 18.76.080(B)(2).

18.76.070 Development Standards

Unless otherwise exempted in this chapter, the standards set forth below shall apply to all recreational marijuana facilities in the unincorporated areas of Cowlitz County. In the event of conflicts with this chapter and any other development standards contained in local ordinance, state law or federal law, the more stringent provision shall apply.

A. Building and Fire Codes. All recreational marijuana facilities and associated structures and development shall conform to the appropriate section(s) of the IBC and IFC.

B. Outdoor Production Prohibited. All recreational marijuana production operations shall be conducted indoors only, in a fully enclosed building or structure. Greenhouses may be considered a fully enclosed building, provided they are an opaque structure and are adequately screened from view of public rights of way and neighboring properties. Screening necessary to meet this standard may be required in addition to the screening standards identified in CCC 18.76.790(E).

B. Setbacks. In addition to those setbacks required by the Cowlitz County Land Use Ordinance and Building Code Ordinance, all recreational marijuana land uses shall maintain the following setbacks.

1. Recreational marijuana land uses located in Urban or Industrial areas shall maintain a minimum setback of 250 feet from any residence, mobile home park, or RV park located on another property. This distance shall be measured as the shortest straight line distance from the exterior wall of any structure associated with the recreational marijuana facility, or exterior boundary of the associated parking lot, to the property line on which the residence, mobile home park, or RV park is located.

2. For those recreational marijuana land uses within a Rural, Remote, or Agricultural area, the minimum setback is 75 feet, as measured from the exterior wall of any structure associated with the recreational marijuana facility, or exterior boundary of the associated parking lot to exterior wall of any residence located on another property.

C. Lighting. Any lighting proposed with a recreational marijuana facility shall be hooded and/or shielded to prevent light transmission to neighboring properties.
E. Screening. The visual impacts of a recreational marijuana facility shall be mitigated through vegetative screening and/or landscaping.
   1. A row of evergreen trees or shrubs shall be planted along the outside perimeter of the facility. The vegetation shall be no less than four feet in height when planted, and spaced in such a way as to obscure the facility from view. Any screening shall be maintained in good health and repair at all times.
   2. Subject to approval by the Director, any combination of existing vegetation, berming, topography, decorative walls or fences, or other features instead of landscaping may be permitted if they achieve the same degree of screening as the required landscaping.
   3. Screenings for recreational marijuana retail facilities may be reduced in order to maintain visibility from a public road or right-of-way.

F. Parking. All recreational marijuana facilities shall provide adequate parking in accordance with the requirements identified in CCC 18.10.560-.562.

G. Access. Demonstration of legal access connecting the recreational marijuana facility and the public right-of-way shall be required at the time of application.

H. Parcel Size. All recreational marijuana production and processing facilities shall maintain a minimum lot size based on their location:
   1. Facilities located in Rural, Remote, or Agricultural areas shall maintain a minimum legal lot size of 5 acres.
   2. Facilities located within Industrial area Urban areas shall maintain a minimum legal lot size of 1-acre.
   3. Tier 1 production facilities and tier 1 processing facilities operated in only conjunction with a Tier 1 production facility on the same parcel, are not subject to the minimum lot sizes identified above.

I. Cameras. Any security cameras proposed with a recreational marijuana facility shall be positioned so as not to intrude on the privacy of adjacent properties.

J. Zoning Compliance. In zoned areas, all recreational marijuana related land uses shall meet the requirements of the designation in which they are located. For those recreational marijuana land uses that do not meet the use requirements in a particular zoning designation, a special use permit shall be required following the process prescribed in CCC 18.76.080(B)(2) and CCC 18.10.290-295.

M. Odor. No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring uses. Adequate ventilation shall be provided for all facilities to eliminate odors of marijuana detectable outside of the facility.
N. Retail Separation. Marijuana retailers shall be separated by a minimum of 300 feet from other marijuana retailers. This distance shall be measured as the shortest straight line distance from property line to property line.

K. Variances. The development standards of this chapter may be reduced, increased, altered, or amended subject to approval of a variance in accordance with the procedures set forth in the CCC 18.10.340 through CCC 18.10.365, or as amended.

18.76.080 Review Process and Administration

All recreational marijuana facilities shall be reviewed for consistency with this chapter. Applications shall, at a minimum, contain the application materials identified below.

A. Application Content for all facilities:

1. Master application and parcel description, including assessor’s map and parcel number.

2. Scaled site plan identifying all elements of the proposed facility, proposed means of access, and setbacks to all structures and significant features within 300 feet.

3. Vicinity map.

4. Narrative describing all elements of the proposed recreational marijuana land use, and methods to be used to meet the development standards identified within this ordinance.

5. Landscaping/screening plan showing the type, location, and extent of screening or landscaping associated with the facility. This plan shall also identify the methods to be used to maintain the necessary screening. Portions of this requirement may be identified on the scaled site plan required above.

6. Any additional applicable information the Director deems necessary to adequately review the proposal.

B. Review Process. Upon receipt of a complete application for a recreational marijuana facility, the application will be processed following one of the two procedures described below, as determined by section 18.76.060.

1. Administrative Approval. Those Recreational Marijuana Facilities to be approved administratively by the Director shall follow the following process:

   a. Within 30 days of the receipt of a complete application, the Director shall distribute copies of the application to agencies with jurisdiction for their review. The return date for the agency findings and recommendations shall be set at 10 days after the date of reviewing agency receipt of the review copies.

   b. The Director shall ensure that all provisions of this chapter have been complied with, and that all findings and recommendations from the reviewing agencies with jurisdiction have been adequately addressed.
c. The Director may affix such conditions as necessary to ensure compliance with the requirements of this chapter and the findings and recommendations of reviewing agencies with jurisdiction. Any party aggrieved by the decision of the Department, with standing as provided by 36.70C RCW, may appeal such decision pursuant to chapter 18.10.310 CCC

2. Hearings Examiner Approval. Those recreational marijuana facilities requiring special use approval shall be heard in an open record public hearing by the Cowlitz County hearings examiner for compliance with the requirements and standards of this chapter and any other applicable regulations.
   a. Upon receipt of an application for a recreational marijuana facility, the Director shall review it for completeness and conformance with the requirements and standards of this chapter and the goals and objectives of the comprehensive plan.
   b. Upon a determination of a complete application, the Director shall distribute copies of the application to all other agencies with jurisdiction for a period of no less than 10 days.
   c. The Director shall generate a report of findings to be attached to the application, and upon completion of the Director’s review, a copy of the application, together with the report and any conditions of approval shall be forwarded to the Cowlitz County Hearings Examiner, and a date shall be set for an open record public hearing to consider the application. The County shall provide notice of such hearing pursuant to CCC 18.10.480.
   d. The hearing examiner may condition such recreational marijuana facility approval as necessary to comply with the requirements of this chapter, the county comprehensive plan, development regulations, and environmental regulations. Conditions applied through this process may exceed the minimum requirements as outlined in this chapter.
   e. The hearing examiner shall issue a decision which shall be final for County purposes. Any party aggrieved by the decision of the hearing examiner, with standing as provided by 36.70C RCW, may appeal such decision pursuant to chapter 18.10.310 CCC.

18.76.090 Violations - Penalties

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does not relieve a person from the duty to comply with this chapter. Violations of this chapter are also subject to penalties under CCC 1.01.090.
Chapter 5.19 - MARIJUANA RESIDENTIAL CULTIVATION RESTRICTIONS

5.19.010 - Legislative powers.

The city council hereby finds and declares that it has the power to enact this chapter and the regulations herein pursuant to Article XX, Section 6, and Article XVIII of Section 14, and Section 16, of the Colorado Constitution, Article XX, Section 6 of the Colorado Constitution, the Colorado Medical Marijuana Program (C.R.S. 25-1.5-106), "Use of flammable gases in home marijuana cultivation prohibited" (C.R.S. 9-7-113), Article 15 of Title 31, C.R.S. ("exercise of municipal powers") and the city's home rule charter and code.

(Ord. 1979, 2014)

5.19.020 - Cultivation regulations/legislative.

(a) The cultivation, production or possession of marijuana plants for medical use by a patient or primary caregiver as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution and the Medical Marijuana Program, C.R.S. 25-1.5-106 shall be allowed in residential structures subject to the requirements set forth in this chapter.

(1) The cultivation, production, or possession of medical marijuana plants must be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, and the Medical Marijuana Program, C.R.S. 25-1.5-106 including its regulations set forth in 5 CCR 1006-2; and

(2) Any primary caregiver acting as a home occupation shall conduct such business in accordance with the home occupation requirements set forth in the city's zoning regulations.

(b) The cultivation, production or possession of marijuana plants for personal use by persons 21 years of age or older, as such terms are defined by Article XVIII of Section 16 of the Colorado Constitution shall be allowed in residential structures subject to full compliance with the applicable provisions of Article XVIII of Section 16 of the Colorado Constitution and the requirements set forth in this chapter.

(Ord. 1979, 2014)

5.19.030 - Cultivation operational regulations.

(a) In addition to the requirements set forth herein in section 5.19.020 of this chapter, the cultivation, production or possession of marijuana for medical use by a patient, or primary caregiver, or for recreational use by any person 21 years of age or older shall be subject to the following conditions:

(1) The marijuana plants must be cultivated, produced, processed and possessed within
a person's primary residence, as defined in paragraph (b) herein; and

(2) The cultivation, production, processing and possession of marijuana plants must not be conducted in an open and public manner meaning it must not be perceptible from the exterior of the primary residence, and such activity shall not cause or create any of the following:

a. Unusual odors, smells, fragrances, or other olfactory stimulus detectable by any person with a normal sense of smell upon or within any adjacent unit or property;

b. Light pollution, glare, or brightness that unreasonably disturbs others in the use or enjoyment of their property, or constitutes a nuisance;

c. Undue vehicular or foot traffic, including excess parking within the residential zone;

d. Excessive noise.

(3) Marijuana plants shall not be cultivated, produced, processed or possessed in the common areas of a multifamily or attached residential development; and

(4) The cultivation, production, processing or possession of marijuana plants shall be limited to the following space limitations within a primary residence as follows:

a. For a single-family dwelling unit (Group R-3 as defined by the most current international building code adopted by the city), within a single, enclosed locked, defined, contiguous area that cannot contain more than 12 plants within such person's primary residence;

b. For a multifamily dwelling unit (Group R-2 as defined by the most current international building code, adopted by the city), within a single, enclosed locked, defined, contiguous area that cannot contain more than 12 plants within such person's primary residence.

(5) Marijuana plants shall not be cultivated, produced, processed or possessed in any accessory structure; and

(6) The cultivation, production, processing or possession of marijuana plants shall meet the requirements of all adopted city building and life/safety codes; and

(7) The use of any compressed flammable gas as a solvent in the extraction of tetrahydrocannabinols or other cannabinoids in a residential setting is prohibited; and

(8) The total load for a single branch circuit shall not exceed the ampacity for the entire cultivation area within a dwelling; and

(9) The use of carbon dioxide generators or other mechanical devices to increase the levels of carbon dioxide to enhance the cultivation of marijuana is prohibited.

(b) For purposes of this section, "primary residence" means the place that a person, by custom and
practice, makes his or her principle domicile and address, and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence, and the use of the residential address for domestic purposes, such as, but not limited to, sleep, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

(c) For purposes of this section, "enclosed locked" area means a location within the primary residence accessible only to the person growing the marijuana through one or more doors secured by a locking mechanism designed to limit access such as with a key or combination lock, and with walls and roofing that must be constructed of solid materials. Such premises must remain secure at all times and any windows must be locked to prevent access by children, visitors or casual passersby.

(Ord. No. 2039, § 2, 11-10-2016; Ord. 1979, 2014)
Chapter 17.29 - MARIJUANA

Sections

17.29.010 - Findings and purpose.

A. The council adopts all of the "whereas" sections of the ordinance from which this chapter is derived as findings to support this chapter.

B. The purpose of this chapter is to establish where marijuana producers, processors and retail outlets may locate in the city, and to describe the restrictions upon such uses.

C. No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 et seq., the Uniform Controlled Substances Act (Chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this chapter shall be construed to supersede state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or marijuana in any manner not authorized by Chapter 69.51A RCW or Chapter 69.50 RCW. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the city council that this chapter be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.020 - Definitions.

The definitions in this section apply throughout this chapter, and the city also adopts the definitions in WAC 314-55-010 and RCW 69.50.101.

A. "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the state department of early learning, under chapter 170-295 WAC.

B. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

C. "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

D. "Elementary school" means a school for early education that provides the first four to eight years of basic education and is recognized by the state superintendent of public instruction.

E. "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

F. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the city, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one
or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as
two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood or equivalent
materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

G. "Library" means an organized collection of resources made accessible to the public for reference or
borrowing supported with money derived from taxation.

H. "Marijuana" means all parts of the plant cannabis, whether growing or not, with a THC concentration
greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of
the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its
seeds or resin. For the purposes of this chapter, "cannabis" or "marijuana" does not include the mature
stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any
other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the
resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of
germination.

I. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are
intended for human use. The term "marijuana-infused products" does not include useable marijuana.

J. "Marijuana, usable" means dried marijuana flowers. The term "usable marijuana" does not include
marijuana-infused products.

K. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as
defined herein.

L. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint
venture, government, governmental subdivision of agency or any other legal or commercial entity.

M. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides
and other playground equipment, owned and/or managed by a city, county, state or federal government.

N. "Process" means to handle or process cannabis in preparation for use.

O. "Processor, marijuana" means a person licensed by the state liquor control board to process marijuana
into useable marijuana and marijuana-infused products, package and label usable marijuana and
marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused
products as wholesale to marijuana retailers.

P. "Producer, marijuana" means a person licensed by the state liquor control board to produce and sell
marijuana at wholesale to marijuana processors and other marijuana producers.

Q. "Produce" or "production" means to manufacture, plant, grow or harvest cannabis or marijuana.

R. "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or
recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county,
state, federal government or metropolitan park district. Public park does not include trails.

S. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township
highways or roads; buildings and grounds used for school purposes; public dance halls and grounds
adjacent thereto; premises where goods and services are offered to the public for retail sale; public
buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores,
garages, and filling stations which are open to and are generally used by the public and to which the
public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public
conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

T. "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

U. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

V. "Retailer, marijuana" means a person licensed by the state liquor control board to sell usable marijuana and marijuana-infused products in a retail outlet.

W. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

X. "Secondary school" means a high and/or middle school. A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the state superintendent of public instruction.

Y. "Useable cannabis or usable marijuana" means dried flowers of the cannabis plant. The term "useable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.030 - Location criteria for marijuana uses.

A. A marijuana license shall not be issued a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest strait line distance from the property line of the proposed building/business location to the property line of the entities listed below:

1. Elementary or secondary school;
2. Playground;
3. Recreation center or facility;
4. Child care center;
5. Public park;
6. Public transit center;
7. Library; or
8. Any game arcade (where admission is not restricted to persons age twenty-one or older.

B. No marijuana producer, processor or retail outlet may locate within any residentially zoned district or within any residential unit in the city.

(Ord. No. 1324, § 1, 11-20-2013)
17.29.040 - Business license.

A. A valid, current license is required from the state liquor control board for operation of any marijuana, producer, processor or retail outlet. A copy of this license shall be submitted to the city as part of the complete application for a permit required by Section 17.57.005.

B. A business license is required from the city for operation of any marijuana producer, processor or retail outlet. No permit may issue unless the city issues a business license for the marijuana use.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.050 - Marijuana uses allowed in identified zones.

A. Marijuana production is an allowed use for those properties in the I-1, Industrial Use Zoning District.

B. Marijuana processing is an allowed use for those properties in the I-1, Industrial Use Zoning District.

C. Marijuana retail outlets or retail uses are allowed uses for those properties east of Interstate 5 at Exit 27, specifically beginning approximately one thousand seven hundred fifty feet northwest of the southern end of Old Pacific Highway at its junction with the I-5 right-of-way, thence northwesterly along the eastern edge of the I-5 right-of-way approximately two thousand feet, thence due east approximately seven hundred feet, thence due south to the point of beginning within the C-2, Highway Commercial Zoning District.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.060 - Signs and advertising.

A. All signage and advertising for a marijuana processor, producer or retail outlet shall comply with the applicable provisions of this Code, the sign code, this title and WAC 314-55-155 (and all applicable rules and regulations promulgated thereunder).

B. Violations of this section relating to the sign code or this title shall result in a one thousand dollar fine. The city may enforce this section pursuant to this title. For violations of WAC 314-55-155 and 314-55-525, the city may report the violation to the state liquor control board.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.070 - Security requirements.

Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules and regulations promulgated thereunder).

(Ord. No. 1324, § 1, 11-20-2013)

17.29.080 - Report of disturbances and unlawful activity.

A. All licensees and any agent, manager or employee thereof shall immediately report to the city police department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.
B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen inches and a minimum width of eleven inches with each letter to be a minimum of one-half-inch in height, which shall read as follows:

**WARNING:**

The City of Kalama Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

C. It shall not be a defense to a prosecution of a code enforcement action under this section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

D. Failure to comply with the requirements of this section shall be considered by the city in any action relating to the issuance or revocation of a permit.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.090 - Visibility of activities; control of emissions.

A. All activities of the marijuana business, including, but not limited to, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of the public view.

B. No marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1324, § 1, 11-20-2013)

17.29.100 - No city liability—Indemnification.

A. By accepting a permit issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a permit issued pursuant to this chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury,
personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the marijuana business that is the subject of the license.

(Ord. No. 1324, § 1, 11-20-2013)
Marijuana Licensing Information

Due to the large volume of calls the County has received and continues to receive regarding marijuana licensing, the County has changed its policies and processes for receiving calls and providing information related to marijuana licensing and license applications. The County is no longer scheduling pre-application meetings related to marijuana licensing until the inquiring party is prepared to proceed with submitting an application for a license. Please carefully read the information provided below as it explains the licensing process and what constitutes being prepared to submit an application for a license.

This information sheet is designed to provide applicants and interested parties with information about the marijuana licensing process and give general information about marijuana licensing. The facts provided herein are for informational purposes only and should not be considered as a guide for preparing an application. Application preparation guidelines will be provided to you during a pre-application meeting when you are ready to prepare and submit an application for a marijuana license.

There are 4 types of Retail Marijuana Licenses:

1. Retail marijuana store
2. Retail marijuana cultivation facility
3. Retail marijuana products manufacturing facility
4. Retail marijuana testing facility

There are 3 types of Medical Marijuana Licenses:

1. Medical marijuana center
2. Medical marijuana optional premises cultivation operation
3. Medical marijuana-infused products manufacturer

For illustrative purposes, this information sheet will only provide details about the retail marijuana licensing process. However, the medical marijuana licensing process closely resembles the retail
marijuana licensing process with very few exceptions; so, this information will suffice as a general overview of the processes you can expect to be subject to for medical marijuana licensing and retail marijuana licensing.

Licensing with the Colorado State Department of Revenue, Marijuana Enforcement Division (MED), is required in order for a La Plata County (local) license to be effective. In fact, in order for La Plata County to process the local retail license application, the County must receive from the State a copy of the application you submitted to the MED Office and the accompanying fee. Please go to the State MED Office website at https://www.colorado.gov/enforcement/marijuanaenforcement for information about the State application processes and for their contact information. (NOTE: The medical marijuana licensing process with the State is slightly different than the State retail licensing process – however, you will need to submit an application with the State and supply the County with a copy of the State application when you apply for a County medical marijuana license.)

You may license and operate a medical marijuana business and a retail marijuana business 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.

A marijuana establishment that receives a license may also be permitted for one off-premises storage facility. Please refer to the County’s marijuana licensing regulations (medical or retail) for more information on off-premises storage facilities.

There are restrictions provided in the County marijuana licensing regulations for who can and cannot hold a license. Please refer to the applicable marijuana licensing regulations (medical or retail) for this information.

The licensing process is divided into 2 phases. The initial phase is the *preliminary determination* which is made at a public hearing by the Local Licensing Authority. The local license application you prepare and submit for the *preliminary determination* must meet the requirements in the County marijuana licensing regulations as provided in the *new license applications* section(s). Application requirements are as follows:

1. Proof of the right to possess the proposed premises (in the form of a deed or lease for the duration of the license period);
2. A building plan;
3. A location plan and plot plan;
4. The applicable fee;
5. Corporate formation documents for the proposed licensee;
6. Material safety datasheets (for all chemicals proposed to be used in the marijuana operation);
7. Information for any proposed off-site storage facility;
8. A background check (fingerprint card);

9. A completed County Application form;

10. Any additional information the Local Licensing Authority requires in order to enable the Local Licensing Authority to determine whether a license should be granted.

Details specific to the above-described items required for application submittal may be found in the County’s marijuana regulations in the new license applications, general restrictions, license restrictions, and background investigations and duty to report sections. Please go to the website link provided above to access these regulations.

Once you have assembled all of the required documents for the application, prepared the application form and fingerprint card (to be provided to you by County Marijuana Licensing Enforcement staff during your pre-application meeting), and submitted the application to the County – County Marijuana Licensing Enforcement staff will review the application for completeness. Once the application is deemed complete and the results of the fingerprint report are back a staff report will be prepared for the Local Licensing Authority and a hearing date will be set for the preliminary determination. Please refer to the new application review and new application determination sections of the County’s marijuana licensing regulations for more information.

The second phase of the licensing process is the final determination. After receiving preliminary determination approval, the applicant proceeds to fulfill final determination requirements. Final determination requirements are as follows:

1. Proof of land use approval. In order to obtain final determination for a license, you must first receive approval for a Class II land use permit to operate the marijuana business for the proposed property location. IMPORTANT NOTE: The land use permit process is a different and separate process from the marijuana licensing process.

2. Building code approval. After receiving approval for the land use permit, you must then work with the Building Department to construct or remodel the proposed facility for marijuana business purposes. The proposed licensed premises must comply with all applicable building code provisions, have all necessary building permits, and been issued a certificate of occupancy before a final determination is made on the license.

3. 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 must be received before a final determination on the license is made. These comments would be specific to new electrical work done for the proposed premises.

4. Fire authority/district comments. Written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code. The comments provided by the fire district may indicate that an inspection will not be conducted until after the business is operational.
5. **San Juan Basin Health Department approval.** For retail marijuana products manufacturing facility licenses, 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. As with the fire district comments, the Health Department’s comments may indicate that an inspection will not be conducted until after the business is operational.

6. **County treasurer.** Written comments or a letter 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.

Once you have obtained a land use permit, met all building code requirements, provided favorable comment from the State Electrical Inspector, and written comment from the County Treasurer that all property taxes have been paid, a meeting with the Local Licensing Authority will be set for final determination of the license. License issuance will be conditioned as described above, and may be conditioned on the issuance of the State license (if one has not yet been issued).

**Marijuana License Enforcement Office Policy Regarding Application Preparation & Submittal**

Prior to contacting the County Marijuana Licensing Enforcement staff to schedule a pre-application meeting for a license, you must first meet with County Planning staff to discuss the feasibility of operating a marijuana business on the proposed site. Until you have met with Planning staff and determined that a land use application may be processed for your intended location, Marijuana Licensing Enforcement staff will NOT schedule a pre-application meeting with you. In order to schedule a pre-application meeting you must also:

1. have purchased or leased the site and can show proof of this (i.e. a lease or a deed) during the marijuana licensing pre-application meeting;

2. have already formed an LLC and/or a corporation with associated documentation (i.e. registered with Colorado Secretary of State, prepared corporate formation documents) and be able to show evidence of this during the pre-application meeting; and,

3. have Planning staff email Marijuana Licensing Enforcement staff to confirm you have met with them and that the proposed location for the marijuana business is a workable location for your proposal (although Planning staff cannot approve the location, they can speak to whether or not the site meets the criteria in the land use code for the proposed marijuana business and/or if the location has issues to be addressed that are not insurmountable).
Once you have met the criteria outlined above and you are ready to move forward with preparing and submitting an application for a license, please contact the Marijuana Licensing Enforcement Office by email at Marianna.Spishock@co.laplata.co.us. Licensing staff will set up a pre-application meeting with you and provide you with all of the necessary paperwork for preparing a marijuana license application.

The Marijuana Licensing Enforcement Office is only open for business on Tuesday’s from 1 pm to 5 pm and on Thursday’s from 1 pm to 5 pm. Marijuana license application business will only be addressed and processed during these hours and only during these hours. Inquiries, requests, and submittals will be taken and responded to in the order they are received.
### License Type, Fees and Contact Information

<table>
<thead>
<tr>
<th>Applicant’s Name (please print)</th>
<th>Store</th>
<th>Type of Retail Marijuana Application: (Circle One)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade Name (DBA)</td>
<td>Cultivation Facility</td>
<td></td>
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<tr>
<td>Website Address</td>
<td>Products Manufacturing Facility</td>
<td></td>
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<tr>
<td>Primary Contact for Business</td>
<td>Testing Facility</td>
<td></td>
</tr>
<tr>
<td>Primary Contact Address (city, state, ZIP)</td>
<td>Title</td>
<td></td>
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<tr>
<td>Federal Taxpayer ID</td>
<td>Primary Contact Phone #</td>
<td></td>
</tr>
<tr>
<td>Colorado State Tax License #</td>
<td>Primary Contact Fax #</td>
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</tr>
</tbody>
</table>

### Application Checklist

1. **A Building Plan** on 24” x 24” (or larger) paper, including compliance with all other requirements of section 53(1)(b), Chapter 7, Article III, Retail Marijuana Code. Please follow the model and instructions provided with this application form. Questions regarding Floor Plan preparation should be directed to the Code Enforcement Officer in the Building Department.

2. **Proof of the right to possess the proposed premises**, per section 53(1)(a), Chapter 7, Article III, Retail Marijuana Code.

3. **A Location Plan/Plot Plan** showing compliance with all requirements of section 53(1)(c), Chapter 7, Article III, Retail Marijuana Code.

4. **Fingerprints** on forms provided by the State, per section 53(1)(e), Chapter 7, Article III, Retail Marijuana Code. Please follow instructions provided with this application form.

5. **Corporate formation documents** for the proposed license, per section 53(1)(f), Chapter 7, Article III, Retail Marijuana Code.

6. **Material Safety Data Sheets** for all proposed chemicals and proposed chemical mixtures must be provided, per section 53(1)(g), Chapter 7, Article III, Retail Marijuana Code.

7. **Off-Premises Storage** facilities to be associated with the proposed Retail Marijuana Facility must provide documents as set forth in section 53(1)(h), Chapter 7, Article III, Retail Marijuana Code. Please follow the instructions provided with this application form.

8. A copy of the applicable **State Retail Marijuana License Application** (a copy of the application you submitted to the State MED Office). Please be advised that La Plata County may not, in its sole discretion, process your application for a County License until the State has determined the application is complete and forwarded said determination to the County.

9. **Fees** in the form of a check or money order, made payable to La Plata County, for operating fees of $3,500.00, per section 53(1)(d), Chapter 7, Article III, Retail Marijuana Code.

10. During the County’s review of the application, **Additional Information** may be required in order to process and fully investigate the application per section 53(1)(l), Chapter 7, Article III, Retail Marijuana Code. Additional Information for this application is outlined on a separate sheet included with this application form.

### Application Tracking Information (for Staff Use Only)

<table>
<thead>
<tr>
<th>Application Submittal Date:</th>
<th>Initial Review Date:</th>
<th>State License #:</th>
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<tr>
<th>Land Use Approval Date:</th>
<th>License Final Determination Approval Date:</th>
<th>Local License Expiration Date:</th>
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<tr>
<th>LLA Preliminary Determination Hearing Date:</th>
<th>License Denied:</th>
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<tr>
<th>Approved: Yes</th>
<th>No</th>
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### General Restrictions
You must answer all of the questions in this Section for the applicant and each person listed in the Ownership Structure section of the applicant’s State application. Are, or have you:

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>Under 21 years of age?</td>
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<td>Delinquent on the payment of County property taxes?</td>
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<tr>
<td>Discharged a sentence for a conviction of a felony in the five (5) years immediately preceding the application date?</td>
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<tr>
<td>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 the application date or five (5) years from May 28, 2013, whichever is longer other than for a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony on the application date?</td>
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<tr>
<td>A La Plata County Sheriff’s Office employee, police officer, prosecuting officer, or a local jurisdiction employee?</td>
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<tr>
<td>A person who has not been a resident of Colorado for at least two years prior to the application date?</td>
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<tr>
<td>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?</td>
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<tr>
<td>A person who is not in possession of the licensed premises throughout the duration of the license period?</td>
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</table>

*If you answer “Yes” to any of the questions in this Section, you must include a written explanation on a separate sheet of paper.*

### Good Moral Character
You must answer all of the questions in this Section for the applicant and each person listed in the Ownership Structure section of the applicant’s State application. Have you ever:

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Been a party to a civil lawsuit that involved claims of fraud, forgery, or other dishonest conduct or a lack of respect for legal obligations?</td>
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<td>Had any professional or business license denied, suspended or revoked?</td>
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<tr>
<td>Violated the rules of the Colorado Marijuana Enforcement Division?</td>
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<tr>
<td>Had a criminal conviction, including misdemeanor convictions, on the premises to be licensed?</td>
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<tr>
<td>Had more than one misdemeanor conviction in one year or three or more misdemeanor convictions in the last five (5) years from the application date?</td>
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<tr>
<td>Had 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?</td>
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<tr>
<td>Had more than one DUI offense in the last five (5) years and/or lack of follow through on Court-ordered requirements related to a DUI charge?</td>
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*If you answer “Yes” to any of the questions in this Section, you must include a written explanation on a separate sheet of paper.*
Property Owner Acknowledgement and Consent:

I, ____________________________, am the property owner of record of the property subject to this application to operate a retail marijuana facility. Furthermore, I consent to and authorize the local licensing authority, its investigators and designees to enter my property to perform inspections and investigations as authorized by the County's retail marijuana regulations and law. I have read this application and acknowledge that there may be unique risks associated with operation of a retail marijuana facility on my property and have considered such risks. I understand that by signing this Acknowledgement and Consent that I am not entering into a contract and that my signature does not create any legal obligation.

Signature: ____________________________ Date: ____________________________

Affirmation and Consent

I affirm that I have reviewed this application and all associated documents and that the contents and statements made therein are true and correct to the best of my knowledge and belief. I understand that any misrepresentations or failure to disclose information requested or pertinent information may be deemed good cause to deny, withhold, or revoke a license. Furthermore, I understand that any misrepresentations or omissions may subject me to civil and/or criminal liability. I consent to all required and necessary investigations and inspections permitted by law;

I affirm that I have read, understand and agree to abide by the license requirements and restrictions set forth in Article III, Chapter 7 of the La Plata County Code, as amended from time to time, as well as all applicable statutory and regulatory requirements and restrictions set forth in the Colorado Retail Marijuana Code, rules promulgated pursuant to the Colorado Retail Marijuana Code and the La Plata County Code, as amended from time to time.

I affirm that violation(s) of any applicable local or state statute, regulation, rule and/or code may result in the suspension, revocation of the license or the issuance of a fine in lieu of suspension.

Signature: ____________________________ Date: ____________________________

Release and Indemnification

If granted a license by the County, the applicant agrees to release 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 applicant's retail marijuana operations, including but not limited to any claim that results from any arrest or prosecution of the applicant, its employees, clients or customers, for a violation of state or federal law, rules, or regulations. Furthermore, by accepting a license issued by the County the applicant, 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 the retail marijuana operation that is the subject of the license. Furthermore, the applicant agrees to investigate, handle, respond to, and 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 applicant an agent or employee of the County.

Signature: ____________________________ Date: ____________________________
Additional Information

The information requested above is required for the processing of the application. Please contact the County’s Code Enforcement Officer Marianna Spishock at 970-382-6253 if you have any questions regarding the additional information requested. This list may not be complete. Additional items may be requested during review of the application.

Application Checklist Instructions

☐ **Building Plan** – Plans for the interior of the building including 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 (e.g., cooling systems, ventilation systems, filters, discharge systems, heating systems) and locations, and all grow light configurations. Marijuana facilities located in a multi-occupancy building must also provide detailed drawings showing the wall construction that separates the ownerships or occupancies. All drawings must be submitted on 24” x 24” paper or larger. See model included with this application (to be used as a guide for preparing the Building Plan).

☐ **Proof of the right to possess 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.

☐ **Location Plan/Plot Plan** - The Location Plan shall show all uses within 50 feet of the licensed premises and any of the 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 submitted on paper 24” x 24” or larger. 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 24” x 24” or larger. 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 24” or larger.

☐ **Fingerprints** – The La Plata County Sheriff’s Office (LPCSO) charges $10 per fingerprint card. Fingerprinting at the LPCSO occurs on Tues. from 9-11 am, and 1-3:30 pm with no appointment necessary. You will need to bring the fingerprint card (supplied to you with the Retail Marijuana License Application Form) along with $10 per card (cash), and a photo ID. Please return the completed fingerprint card with your application at the time of application submittal along with a cashier’s Check, money order, or pre-printed business check made out to CBI for $39.50.

☐ **Corporate Formation Documents** - This includes all formation documents filed with the Colorado Secretary of State, including a certificate of good standing issued by the Secretary of State’s office.

☐ **Material Safety Data Sheets** - MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises.

☐ **Off-Premises Storage** - If you are seeking approval of an off-premises storage facility, include a copy of the completed State forms. In addition, 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 section 53(1)(a), (1)(b) and (1)(c), Chapter 7, Article III, Retail Marijuana Code.

☐ **State Retail Marijuana License Application** – Please provide a copy of the application you submitted to the State for your Retail Marijuana License facility.

☐ **Fees** – Provide a check or money order, made payable to La Plata County, for operating fees of $3,500.00.

☐ **Additional Information** – If applicable, the required information is outlined in the box at the top of this page.
Dual Licenses

The dual operation of a medical marijuana establishment licensed under Article I or II of Chapter 7 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.

- 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.

- 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.

- 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.

In addition to the instructions provided on the Application Checklist Instructions sheet for developing a Building Plan, Retail Marijuana Facilities that propose to share a location with a proposed or duly approved Medical Marijuana Facility must clearly delineate the physical or virtual separation between the two operations on the Building Plan. A narrative or other descriptive documentation may be required to support the information provided on the Building Plan.

Modification Application and Fee. Retail Marijuana Facilities that propose to share a location with a duly approved Medical Marijuana Facility must comply with section 10 of Article I of Chapter 7 of the La Plata County Code. If applicable, you must submit a completed Modification Application, and its associated Fee, with this application.

Medical Marijuana Business License Application and Fee. Retail Marijuana Facilities that propose to share a location with a proposed Medical Marijuana Facility must comply with Article I of Chapter 7 of the La Plata County Code. You must also submit a completed Medical Marijuana Business License Application, and its associated Fee, with this application.
CRIMES DISCLOSURE FORM

Pursuant to La Plata Count Code, Chapter 7, any person of a licensed entity has continuing obligation to make written notification to the local licensing authority of any criminal conviction, summons or charge. Failure to disclose a criminal conviction, summons or charge may result in a denial of your application. Please list each arrest, summons or conviction separately, and use additional sheets if necessary.

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MED VIOLATIONS DISCLOSURE FORM

Please list any investigation and/or enforcement action taken by the Colorado Marijuana Enforcement Division below. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>Date of Violation(s):</th>
<th>Place of Violation(s):</th>
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<tr>
<td>MED Investigator(s):</td>
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<td>Original Violation(s):</td>
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<td>Original Violation(s):</td>
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<td>Disposition Narrative – Must also provide official documentation</td>
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La Plata County Retail Marijuana Application Compliance Checklist:

Business Name: ________________________________________________________________

Business Owner(s): ____________________________________________________________

Compliance Investigator: ___________________________ Date: _______________________

New Retail Marijuana Business Applications will be taken by appointment only; applications mailed in will not be accepted. La Plata County (LPC) requires all documents listed below and any additional documents requested by the compliance investigator. If the application is incomplete or missing required documents LPC will not accept the application or fees until a complete application is submitted.

☐ LPC will only accept business applications from owners. Although managers and attorneys may participate in the application process, they cannot submit applications on behalf of owners because signatures of all owners are required at the time of application submittal. ☐

☐ A copy of the Colorado Marijuana Enforcement Division (MED) Retail Business License Application is required to be submitted along with the LPC Retail Marijuana Business License Application. This must be a complete copy of ALL the paperwork you submitted to MED, not just the application form. ☐

☐ A check or money order for the license operational fee payable to La Plata County. ☐

☐ Copies of the MED Associated Key License Application Forms that you submitted to MED for the business owners and any managers or supervisors to be associated with the business. ☐

☐ Fingerprint card for each business owner along with a cashier’s check, money order, or pre-printed business check made out to CBI for $39.50 (separate check or money order for each card you submit). LPC will send the fingerprint card(s) and fee to CBI for processing. NOTE: Fingerprinting is done at the La Plata County Sheriff’s Office (LPCSO). The LPCSO charges $10 per fingerprint card. Fingerprinting at the LPCSO occurs on Wed. from 9-11 am, and 1-3:30 pm with no appointment necessary. You will need to bring the fingerprint card – supplied to you during the pre-application meeting – along with $10 per card, and a photo ID. ☐

☐ LLC’s must provide an Operating Agreement and Corporations must provide Articles of Incorporation and Bylaws completed and signed by all parties. ☐

☐ Copy of a current “Certificate of Good Standing” from the Colorado Secretary of State. ☐

☐ Copy of Trade Name Registration from the Colorado Secretary of State if applicable. ☐

☐ Verify the business name on the LPC application, MED application, and associated documents all match the legal business name registered with the Colorado Secretary of State. ☐

☐ Verify that all documents with signature pages are signed and dated. ☐

☐ Copy of the current lease(s), in the name of the business, fully executed and signed, for each licensed business location. (NOTE: the lease must show possession of the licensed premises for a full year from the date the license is issued.) ☐
Floor plans of each facility, to scale (1/4" = 1’), on paper 24” x 24” or larger. These drawings must clearly reflect the uses, functions, and operations within the building and clearly identify the licensed premises area(s). See checklist included in the LPC application form for more details regarding plan preparation.

A location and plot plan for the property where the retail marijuana business is to be located. Plans shall be submitted on paper 24” x 24” or larger. See checklist included in the LPC application form for more details regarding location and plot plan preparation.

A Statement of Understanding form signed by each owner for each business license certifying knowledge and compliance of all LPC and state laws and regulations. (This form provided by LPC at time of application.)

MSDS sheets for all proposed chemicals and proposed chemical mixtures to be stored or used on the premises.

For off-premises storage facilities, include a copy of the completed State forms. In addition, include documents demonstrating the right to possess the off-premises storage facility along with a building, location and plot plan specific to the off-premises storage facility, as described in section 53(1)(a), (1)(b) and (1)(c), Chapter 7, Article III, of the LPC Retail Marijuana Code.

LPC must be in receipt of the LPC applicant’s MED application and associated LPC application fee (forwarded to LPC by the State) at the time of application intake in order to process the application. If the MED application and associated fee has not yet been received by LPC when you submit your application, LPC will accept the application (if it is compliant) and operational fee but will not begin processing it until the MED application and associated application fee is received.

Submittal of a fingerprint card does not constitute a background check. To complete a background check: LPC will forward the fingerprint card provided by the applicant to CBI for processing. LPC will subsequently receive the CBI background check report, complete its local investigation of the applicant, and then review and prepare a report based on the evidence discovered during the investigation. The background check must be complete for LPC to process its investigation of the application as required by the regulations. Background checks typically take between 4 and 6 weeks to complete; however, these timeframes are approximate.

Once the background check is complete (as described above), LPC will review the information provided in the application and the results of the background check to determine the application’s compliance with the County’s Retail Marijuana Licensing Regulations. Once this review is complete, LPC will prepare a staff report based on its findings for consideration by the Local Licensing Authority (LLA).

A preliminary determination hearing date will be set no less than thirty (30) days from the date LPC receives and deems an application complete. Once the County receives a complete application (assuming all submitted documents are sufficient) the above-described investigation processes will take place in order to provide the Local Licensing Authority with the information required to review and consider an application. This process may take significantly more than thirty (30) days. Applicants should plan accordingly.

NOTES:
<table>
<thead>
<tr>
<th>Type of Application / License</th>
<th>Fees</th>
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<tbody>
<tr>
<td>New Retail Marijuana Business OR Change of Location</td>
<td>$3,500.00 – Operational Fee</td>
</tr>
<tr>
<td>New Medical Marijuana Business OR Change of Location</td>
<td>$4,000.00 – includes:</td>
</tr>
<tr>
<td></td>
<td>$1,000.00 – Application Fee</td>
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<td>$3,000.00 – License Fee</td>
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<td>(License fee refunded if license is denied)</td>
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<tr>
<td>Conversion Medical Marijuana Business to Retail Marijuana Business</td>
<td>$1,000.00 – Application &amp; License Fee</td>
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<tr>
<td>Renewal Medical or Retail Marijuana Business License</td>
<td>$3,000.00 – Application &amp; Renewal Fee</td>
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<tr>
<td>Transfer / Change of Ownership Medical or Retail Marijuana Business License</td>
<td>$1,500.00 – Application &amp; Transfer Fee</td>
</tr>
<tr>
<td>Modification of Premises Medical or Retail Marijuana Business License</td>
<td>$1,000.00 – Application &amp; Mod. Fee</td>
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<tr>
<td>Change in Entity Structure</td>
<td>$100.00 (per person)</td>
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<tr>
<td>Change of Trade Name</td>
<td>$25.00</td>
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<tr>
<td>Duplicate Business License</td>
<td>$25.00</td>
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La Plata County Ballot Measure Poll — May 2015

Hello, may I please speak with name on the list?

My name is name of interviewer. I’m calling from XXXX Research. I’m not selling anything. We’re doing a survey here in La Plata County on some topics that I’m sure you will find interesting.

Screener questions

S1. Respondent type Don’t ask question.

Name on list is available .......................................................... 1 Continue interview
Other registered voter in household is available .................. 2 Continue interview
No voter available in household ........................................... 3 Terminate interview

S2. Are you 18 or older and registered to vote in La Plata County, Colorado?

Yes ............................................................................................... 1 Continue interview
No ................................................................................................. 2 Terminate interview
Don’t know / not sure Don’t read ............................................. 3 Terminate interview

S3. What are the chances that you will vote in the November 2015 election that may include a number of ballot issues – will you definitely vote, probably vote, are the chances 50-50, or will you probably not vote?

Definitely vote .................................................................................. 1 Continue interview
Probably vote .................................................................................. 2 Continue interview
50-50 chances .................................................................................. 3 Continue interview
Probably not vote ............................................................................... 4 Continue interview
Don’t know / not sure Don’t read .................................................. 5 Terminate interview

4. Generally speaking, do you think things in La Plata County are heading in the right direction, or do you think things are heading in the wrong direction?

Right direction ............................................................................... 1
Wrong direction .............................................................................. 2
Don’t know / not sure Don’t read .................................................. 3
5. What would you say are the most important issues or challenges facing La Plata County?

**Probe:** Are there any others issues? **Don’t read list.** If respondent says the economy, education / schools, marijuana, transportation or government - please ask to specify the issue or challenge. Multiple response question.

**EDUCATION / SCHOOLS**
- Not enough school funding, funding cuts, schools need more money ........................................ 1
- Improve school quality, schools are poor quality ........................................................................... 2
- Need more, better quality teachers, teacher pay .............................................................................. 3
- Program cuts like art and music classes ............................................................................................ 4
- Reduce class sizes, class sizes are too large ...................................................................................... 5

**MARIJUANA**
- Marijuana regulations, laws, implementation .................................................................................. 6
- Oppose marijuana legalization ........................................................................................................... 7
- Favor marijuana legalization ............................................................................................................... 8

**TRANSPORTATION**
- Roads, highways, bridges - repair, safety issues .............................................................................. 9
- Traffic, congestion ............................................................................................................................... 10
- La Plata County airport expansion, improvements ............................................................................ 11

**ECONOMY / JOBS**
- Jobs, unemployment .......................................................................................................................... 12
- Affordable housing, rising housing costs .......................................................................................... 13
- New industry needed, economic development .................................................................................. 14

**GOVERNMENT / BUDGET / TAXES**
- Taxes - too high, need tax cut, too many tax increases .................................................................. 15
- **La Plata County government** - budget problems, deficit, cutbacks .............................................. 16
- **City government** - budget problems, deficit, cutbacks .................................................................. 17
- Homelessness, poverty, hunger ......................................................................................................... 18
- Crime, violence, gangs, drug abuse .................................................................................................... 19
- Oil and gas development, fracking .................................................................................................... 20
- Environment, pollution ....................................................................................................................... 21
- Too much growth, development, population .................................................................................... 22
- Parks, trails, open-space ..................................................................................................................... 23
- Bike lanes, bikeable shoulders bike paths, bike safety ...................................................................... 24
- Health care, costs, reform, Obamacare, Medicare, Medicaid ............................................................... 25
- Children’s issues (not education) ......................................................................................................... 26
- Water issues ......................................................................................................................................... 27
- Other issue or problem **Specify other issue or problem** ................................................................. 28
- None / Don’t know ............................................................................................................................. 29
Ask question 6 on Form X only: n=240

6. While you may or may not be aware of it, this past year there has been discussion that the La Plata County budget will face revenue shortfalls over the next ten years. Now I’d like you to consider a measure that may be on the ballot in November in La Plata County that addresses this issue. The ballot question concerns a 2.65 property tax mill levy dedicated to funding capital improvements to La Plata County road and bridge infrastructure. The measure reads as follows:

Shall La Plata County taxes be increased by $5-point-4 million dollars beginning in 2016 and thereafter by whatever amounts are raised annually from a levy of 2.65 mills for the purposes of making capital improvements to La Plata County roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety in order to better serve the growing population?

Would you vote yes or vote no on THIS ballot measure? If respondent says yes or no ask: Would you definitely vote yes / no or probably vote yes / no? If respondent says don’t know or undecided ask: Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes ........................................................................................................... 1
Probably yes ........................................................................................................... 2
Probably no ............................................................................................................ 3
Definitely no ............................................................................................................. 4
Undecided – lean yes .............................................................................................. 5
Undecided – lean no ............................................................................................... 6
Don’t know / undecided Don’t read ........................................................................ 7
Ask question 6a on Form X

6a. Let me tell you a little bit more about the reason why this measure is on the ballot.

Due to a drop-off in natural gas development, La Plata County’s property tax revenues have been steadily declining - and are projected to continue to decrease over the next ten years. This decline in property tax revenues is preventing La Plata County from making much needed road and bridge repairs and maintenance.

So, this ballot measure increases property taxes, allowing La Plata County to make necessary improvements to its roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety.

Now based on this information, would you vote yes or vote no on this ballot measure? If respondent says yes or no ask: Would you definitely vote yes / no or probably vote yes / no? If respondent says don’t know or undecided ask: Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes ................................................................. 1
Probably yes ................................................................. 2
Probably no ................................................................. 3
Definitely no ................................................................. 4
Undecided – lean yes..................................................... 5
Undecided – lean no..................................................... 6
Don’t know / undecided Don’t read ................................. 7

Ask if vote yes/undecided in question 6a (Q6a=1,2,5,7)

7. What is the main reason why you might vote yes on this measure? **Probe:** Are there any other reasons?

______________________________________________________________________________

Ask if vote no/undecided in question 6a (Q6a=3,4,6,7)

8. What is the main reason why you might vote no on this measure? **Probe:** Are there any other reasons?

______________________________________________________________________________
Ask question 9 on Form Y only: n=240

9. While you may or may not be aware of it, this past year there has been discussion that the La Plata County budget will face revenue shortfalls over the next ten years. Now I’d like you to consider a measure that may be on the ballot in November in La Plata County that addresses this issue. The ballot question concerns a 4.75 property tax mill levy dedicated to funding capital improvements to La Plata County road and bridge infrastructure AND improvements to county buildings and facilities. The measure reads as follows:

Shall La Plata County taxes be increased by **$8 million dollars** beginning in 2016 and thereafter by whatever amounts are raised annually from a levy of **4.75 mills** for the following purposes: Making capital improvements to La Plata County roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety, AND new and improved county buildings and facilities in order to better serve the growing population?

Would you vote yes or vote no on THIS ballot measure?  If respondent says yes or no ask: Would you definitely vote yes / no or probably vote yes / no?  If respondent says don’t know or undecided ask: Even though you are undecided, do you lean toward voting yes or voting no?

- Definitely yes ................................................................. 1
- Probably yes ............................................................... 2
- Probably no .................................................................. 3
- Definitely no ............................................................... 4
- Undecided – lean yes ................................................. 5
- Undecided – lean no .................................................. 6
- Don’t know / undecided Don’t read .......................... 7
Ask question 9a on Form Y only: n=240

9a. Let me tell you a little bit more about the reason why this measure is on the ballot.

Due to a drop-off in natural gas development, La Plata County’s property tax revenues have been steadily declining - and are projected to continue to decrease over the next ten years. This decline in property tax revenues is preventing La Plata County from making much needed road and bridge repairs and maintenance, AND improvements to County buildings.

So, in order to better serve the La Plata County’s growing population, this ballot measure increases property taxes, allowing La Plata County to make necessary improvements to its roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety, AND new and improved county buildings and facilities.

Now based on this information, would you vote yes or vote no on this ballot measure? If respondent says yes or no ask: Would you definitely vote yes / no or probably vote yes / no? If respondent says don’t know or undecided ask: Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes ............................................................... 1
Probably yes .............................................................. 2
Probably no ................................................................. 3
Definitely no ................................................................. 4
Undecided – lean yes .................................................... 5
Undecided – lean no ...................................................... 6
Don’t know / undecided Don’t read ............................... 7

Ask if vote yes/undecided in question 9a (Q9a=1,2,5,7)

10. What is the main reason why you might vote yes on this measure? Probe: Are there any other reasons?

____________________________________________________________________________________________

Ask if vote no/undecided in question 9a (Q9a=3,4,6,7)

11. What is the main reason why you might vote no on this measure? Probe: Are there any other reasons?

____________________________________________________________________________________________
Not all of the details of the ballot measure have been finalized, so now I’m going to read a few statements about this ballot measure. After I read each one, please tell me if it makes you more likely to vote for the measure, less likely to vote for the measure, or would it make no difference? If respondent says more/less likely ask: Are you much more/less or somewhat more/less likely to vote for it? First/Next… Randomize order of statements.

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<thead>
<tr>
<th></th>
<th>Much More</th>
<th>Some More</th>
<th>Some Less</th>
<th>Much Less</th>
<th>No Difference</th>
<th>Don’t know</th>
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<tr>
<td>12.</td>
<td>The current La Plata County property tax levy of 8.5 mills is the fourth lowest of any county in the state of Colorado and is 13 mills lower than the average Colorado county. If this measure passes, La Plata County property taxes would still be much lower than average.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>13.</td>
<td>The 2.65 mill levy will increase residential property taxes by $74 dollars per year on the average home valued at $350 thousand dollars. Ask on Form X only: n=240</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>14.</td>
<td>The 4.75 measure will increase residential property taxes by $132 dollars per year on the average home valued at $350 thousand dollars. Ask on Form Y only: n=240</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>15.</td>
<td>La Plata County publishes an annual independent audit and report of government spending on the county website.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>16.</td>
<td>The revenues will be dedicated to La Plata County road and bridge maintenance and improvement projects.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>17.</td>
<td>The measure will fund road improvements that include bikeable shoulders.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>18.</td>
<td>The measure will fund improvements that increase safety of La Plata County’s roads and bridges.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>19.</td>
<td>The measure will allow La Plata County to maintain the current level of snow removal and plowing services.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>20.</td>
<td>The measure ensures that La Plata County can balance its budget WITHOUT making cutbacks in vital services or road and bridge maintenance.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>21.</td>
<td>A portion of new revenues would be shared with the towns and cities within La Plata County to use on similar projects.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>22.</td>
<td>The measure will fund improved county buildings and facilities in order to better serve the growing population.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>
23. Now I’d like you to think about the amount you pay in local taxes and fees for the services and amenities that you receive as a resident of La Plata County - do you feel you are asked to pay more than you should, about the right amount, or less than you should? Read and rotate the order of answer choices top to bottom, bottom to top.

More than you should .......................................................... 1
About the right amount ........................................................... 2
Less than you should ............................................................. 3
Don’t know / not sure Don’t read................................................. 4

Rotate the order of the support and opposition statements. Half hear the support statements in questions 24-28 first and half hear the opposition statements in questions 29-33 first.

Now I’d like to read you some statements that some people have made about why they would SUPPORT the mill levy ballot measure. After I read each statement, please tell me how convincing it is as a reason to support the measure – very convincing, just somewhat convincing, not very convincing, or not at all convincing. Randomize the order of statements.

24. **Revenue Shortfall Due To Decrease In Natural Gas Revenues In The County.** The tax revenues from natural gas development have decreased sharply over the past five years and now La Plata County faces millions of dollars in service cutbacks – particularly in the area of road and bridge maintenance. This measure will give La Plata County the revenue it needs to fund critical La Plata County services and ensure that our roads and bridges are safely maintained.

25. **Low Property Taxes.** La Plata County has the 4th lowest property tax rate of any county in Colorado and our property tax rates are the lowest in the region. In fact, it’s been more than 25 years since La Plata County increased property taxes. Unless we increase property taxes, La Plata County will need to cut spending on vital services and much needed road and bridge maintenance.

26. **A Great Place To Live And Raise A Family.** It’s important that La Plata County remain a great place to live and raise our families. In order to do that we need to continue to make these investments in vital community services - such as maintaining the quality and safety of our roads and bridges.

27. **Attracting Businesses and Jobs.** Building our local economy depends on attracting businesses and jobs to La Plata County. We can accomplish this only if we make it a priority to pass this measure to fund important La Plata County services, and making sure that our roads and bridges are properly maintained and improved.

28. **Current Mill Levy Not Enough.** La Plata County’s population has grown by nearly 25 percent over the past 15 years. The county has identified significant capital improvement projects including new and improved facilities and buildings and road and bridge maintenance in order to serve this growing population. Unfortunately, at the current mill levy, County revenues are not sufficient to fund these important projects.
Now I’d like to read you some statements that some people have made about why they would OPPOSE the mill levy ballot measure. After I read each statement, please tell me how convincing it is as a reason to oppose the measure – very convincing, just somewhat convincing, not very convincing, or not at all convincing. Randomize the order of statements.

29. **Tighten Its Belt.** Instead of raising taxes, La Plata County can find more ways to tighten its belt, cut back on government spending, and find a way to balance the budget.

30. **Unclear Where Money Will be Spent.** Voters should reject this property tax increase because it does not include clearly defined projects that our tax dollars will be spent on. Our tax dollars will be spent on buildings and administration.

31. **Taxes Are Already Too High.** Our taxes are already too high here in La Plata County. Most of us are still recovering from the economic downturn and we can’t afford to pay for an increase in our property taxes.

32. **Property Taxes Are Already Going Up.** For many, property taxes have already gone up based on their latest property tax assessment. As the economy continues to improve, housing prices will continue to rise which will further increase La Plata County property tax revenues, so there is no need for this property tax measure.

33. **Job Killer.** This measure will significantly increase property taxes for local businesses, which will hurt our economy and prevent companies from moving here – killing jobs just when things were getting better.
Ask question 34 on Form X only: n=240

34. Now, based on everything you’ve heard, I’d like you to reconsider the ballot measure we discussed earlier. The measure reads as follows:

Shall La Plata County taxes be increased by $5-point-4 million dollars beginning in 2016 and thereafter by whatever amounts are raised annually from a levy of 2.65 mills for the purposes of making capital improvements to La Plata County roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety in order to better serve the growing population?

Would you vote yes or vote no on this ballot measure? **If respondent says yes or no ask:** Would you definitely vote yes / no or probably vote yes / no? **If respondent says don’t know or undecided ask:** Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes ................................................................. 1
Probably yes ................................................................. 2
Probably no ..................................................................... 3
Definitely no ................................................................. 4
Undecided – lean yes ...................................................... 5
Undecided – lean no ....................................................... 6
Don’t know / undecided Don’t read ................................. 7

Ask question 35 on Form Y only: n=240

35. Now, based on everything you’ve heard, I’d like you to reconsider the ballot measure we discussed earlier. The measure reads as follows:

Shall La Plata County taxes be increased by $8 million dollars beginning in 2016 and thereafter by whatever amounts are raised annually from a levy of 4.75 mills for the following purposes: Making capital improvements to La Plata County roads and bridges including resurfacing and maintenance, building safe bikeable shoulders, and improving public safety, AND new and improved county buildings and facilities in order to better serve the growing population?

Would you vote yes or vote no on this ballot measure? **If respondent says yes or no ask:** Would you definitely vote yes / no or probably vote yes / no? **If respondent says don’t know or undecided ask:** Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes ................................................................. 1
Probably yes ................................................................. 2
Probably no ..................................................................... 3
Definitely no ................................................................. 4
Undecided – lean yes ...................................................... 5
Undecided – lean no ....................................................... 6
Don’t know / undecided Don’t read ................................. 7
36. If there are other tax measures on the ballot at the same time as the capital improvements mil levy tax question that we have been talking about, which one of the following comes closest to your own opinion on the tax measures. **Read and rotate the order of answer choices top to bottom, bottom to top.**

You would vote against all of the tax measures .......................... 1
You would vote for all of the tax measures ................................. 2
You would evaluate the capital improvements mill levy tax question on its own merits before you decide how you will vote................................................................. 3
Don’t know / not sure Don’t read................................................. 4

37. Now I’d like to read an additional measure that is being considered for the La Plata County ballot. Would you vote yes or vote no on a ballot measure that would increase La Plata County property taxes for the purposes of La Plata County acquiring additional water rights in order to maintain access to water in the future? **If respondent says yes or no ask:** Would you definitely vote yes / no or probably vote yes / no? **If respondent says don’t know or undecided ask:** Even though you are undecided, do you lean toward voting yes or voting no?

Definitely yes .................................................................................. 1
Probably yes ................................................................................... 2
Probably no ..................................................................................... 3
Definitely no .................................................................................... 4
Undecided – lean yes................................................................. 5
Undecided – lean no................................................................. 6
Don’t know / undecided Don’t read ........................................ 7
Demographic questions
And finally, just a few questions for statistical purposes only...

D38. Gender Do not ask question

<table>
<thead>
<tr>
<th>Gender</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>1</td>
</tr>
<tr>
<td>Female</td>
<td>2</td>
</tr>
</tbody>
</table>

Ask only if respondent is other voter in household, or there is no age on the voter file.

D39. Could you please tell me your age? Read list if necessary

<table>
<thead>
<tr>
<th>Age</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-24</td>
<td>1</td>
</tr>
<tr>
<td>25-29</td>
<td>2</td>
</tr>
<tr>
<td>30-34</td>
<td>3</td>
</tr>
<tr>
<td>35-39</td>
<td>4</td>
</tr>
<tr>
<td>40-44</td>
<td>5</td>
</tr>
<tr>
<td>45-49</td>
<td>6</td>
</tr>
<tr>
<td>50-54</td>
<td>7</td>
</tr>
<tr>
<td>55-59</td>
<td>8</td>
</tr>
<tr>
<td>60-64</td>
<td>9</td>
</tr>
<tr>
<td>65-69</td>
<td>10</td>
</tr>
<tr>
<td>70+</td>
<td>11</td>
</tr>
<tr>
<td>Refused</td>
<td>12</td>
</tr>
</tbody>
</table>

D40. Do you have any children age 18 or younger, or not?

<table>
<thead>
<tr>
<th>Response</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, have children age 18 or younger</td>
<td>1</td>
</tr>
<tr>
<td>No, do not have any children age 18 or younger</td>
<td>2</td>
</tr>
<tr>
<td>Don’t know / refused</td>
<td>3</td>
</tr>
</tbody>
</table>

D41. Do you own or rent your home?

<table>
<thead>
<tr>
<th>Response</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Own</td>
<td>1</td>
</tr>
<tr>
<td>Rent</td>
<td>2</td>
</tr>
<tr>
<td>Don’t know / refused</td>
<td>3</td>
</tr>
</tbody>
</table>

D42. Do you think of yourself as a Democrat, Republican, or an Independent? If Democrat, ask:
Would you call yourself a strong Democrat, or a not very strong Democrat? If Republican, ask:
Would you call yourself a strong Republican, or a not very strong Republican?

<table>
<thead>
<tr>
<th>Response</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strong Democrat</td>
<td>1</td>
</tr>
<tr>
<td>Not strong Democrat</td>
<td>2</td>
</tr>
<tr>
<td>Independent</td>
<td>3</td>
</tr>
<tr>
<td>Not strong Republican</td>
<td>4</td>
</tr>
<tr>
<td>Strong Republican</td>
<td>5</td>
</tr>
<tr>
<td>Other party Don’t read response, but ask to specify if other</td>
<td>6</td>
</tr>
<tr>
<td>Don’t know / not sure</td>
<td>7</td>
</tr>
</tbody>
</table>
D43. What is the last grade or level of school you have completed? Read list if necessary.

- Less than high school degree .................................................. 1
- High school graduate .............................................................. 2
- Some college / 2 year degree / Associates degree .................. 3
- College graduate / BA or BS degree ...................................... 4
- Postgraduate courses / Masters or Doctoral degree ............. 5
- Don’t know / refused Don’t read ............................................. 6

D44. Just to be sure we are representing everybody, may I ask your race? Do not read answer choices.

- Hispanic / Latino ...................................................................... 1
- White .......................................................................................... 2
- Black / African American .......................................................... 3
- Asian ............................................................................................... 4
- Native American / American Indian ......................................... 5
- Other Don’t read response ............................................................ 6
- Don’t know / refused Don’t read .................................................. 7

Thank you for taking our survey, your answers have been very helpful.
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
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:

[Signature]
Clerk to the Board

LA PLATA COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

[Signature]
Gwen Lachelt, Chair

[Signature]
Brad Blake, Vice Chair

[Signature]
Julie Westendorff, Commissioner

Ordinance O-2015-01
Page 3 of 4
STATE OF COLORADO  
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 ___day of ___November______, 2015, prior to its final consideration by the La Plata County Board of County Commissioners.

[Signature]
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 ___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 ___day of ___December____, 2015.

[Signature]
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 in 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 in 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.]
CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 217

AN ORDINANCE OF THE CITY OF LIBERTY LAKE,
WASHINGTON, ESTABLISHING CERTAIN ZONING REGULATIONS FOR
MARIJUANA BUSINESSES

WHEREAS, in November 2012 the voters of the State of Washington approved Initiative 502, providing a framework whereby individuals and business entities may be granted a state license authorizing them to produce, process, or sell marijuana and marijuana-infused products for recreational use; and

WHEREAS, pursuant to Initiative 502, the Washington State Liquor Control Board has developed and implemented regulations governing the licensing and operation of recreational marijuana or marijuana-infused producers, processors, and retailers; and

WHEREAS, under Initiative 502 and Chapter 314-55 WAC, any marijuana business property must meet certain requirements, including to be located at least 1000 feet from any elementary or secondary school, playground, recreation center or facility, child care center, park, transit center, and library, as well as from any game arcade not restricted to ages 21 or older; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued a legal opinion, AGO 2014 No. 2, that Initiative 502 does not preempt counties, cities, and towns from banning marijuana and marijuana-infused producers, processors, and retailers within their jurisdictions; and

WHEREAS, the City of Liberty Lake may develop appropriate zoning, land use regulations, business license regulations, and other appropriate regulations to address the production, processing, and retail sales of recreational marijuana and marijuana-infused products; and

WHEREAS, the City has mapped the 1000-foot buffer areas that apply to marijuana businesses and determined that only limited land areas are both outside a 1000-foot buffer and zoned for commercial or industrial use; and

WHEREAS, the City desires to keep marijuana businesses from locating inside any required 1000-foot buffer areas; and
WHEREAS, this Ordinance has been drafted to establish zoning regulations for marijuana businesses, consistent with state statutes, and to protect the public health, welfare, and safety; and

WHEREAS, after public notice, the City Council held a public workshop on November 18, 2014, to consider certain proposed buffer zones, along with any public testimony and other relevant factors, and recommended approval of the proposed buffer zones through an enacted ordinance consistent with Initiative 502, RCW 69.50.331(8), WAC 314-55-050(10), and AGO 2014 No. 2; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law, but is intended to set forth the conditions under which marijuana businesses shall not be subject to criminal enforcement action by the City of Liberty Lake. Notwithstanding the foregoing, the City will continue to enforce its laws and other regulations should the operation of a marijuana business violate such laws and regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIBERTY LAKE DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are hereby adopted and incorporated as Findings of Fact and/or Conclusion of Law of the City Council. The City Council bases its findings and conclusions on the entire record of testimony, including all written and oral testimony before the City Council. The City Council also adopts the following Findings of Fact and/or Conclusions of Law relative to the public health, safety, welfare and protection of the environment:

1. Pursuant to RCW 69.50.331(8) and WAC 314-55-050(10), the LCB is prohibited from licensing any marijuana producers, processors, and retailers within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, excluding trails, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

2. The Centennial Trail and other public trails within the City are trails that are and will be regularly used by the citizens of the City, including minors.

3. Pursuant to Article 11, Section 11 of the Washington Constitution, the City of Liberty Lake is authorized to "make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws," which includes the adoption of regulations governing land uses within the City.

4. On January 16, 2014, the Washington Attorney General issued Attorney General Opinion No. 2, in which he stated that "[a]lthough Initiative 502 (I-502) establishes a licensing and regulatory system for marijuana producers, processor, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions."
5. I-502 does not preempt the City from exercising and administering its constitutional and statutory land use regulatory authority to allow and regulate land uses within the City limits.

6. Modifications to the recreational marijuana buffers and zoning contained in I-502, RCW 69.50.331(8) and WAC 314-55-050(10) will continue to protect the City’s citizens, including minors.

7. The proposed buffer zones will allow compliance with state law and allow state-licensed recreational marijuana businesses to locate within the City while separating such uses from identified sensitive uses and the City’s existing and future residential uses.

Section 2. Buffer Zones

A. Purpose and intent. The purpose of this Ordinance is to establish certain zoning regulations that provide for marijuana businesses allowed under I-502, now codified in Title 69 RCW, and subject to requirements of Chapter 314-55 WAC.

B. Locations. A marijuana business shall not be located within one thousand feet of the perimeter of the grounds of any of the following entities or locations:

1. Elementary or secondary school, including school bus stop locations;
2. Playground;
3. Recreation center or facility;
4. Child care center;
5. Park;
6. Public transit center, including transit bus stop locations;
7. Library;
8. Game arcade where admission is not restricted to persons age 21 and older;
9. Churches and religious facilities; or
10. Access points for the Centennial Trail or other public trails within the City of Liberty Lake.

For purposes of locations set forth herein, the distance shall be measured as the shortest straight line distance from the property line of each entity or location identified above to the property line or location of the marijuana business, as defined by law, or as amended.

C. Enforcement of violations. Violations of this Chapter shall be subject to enforcement action as provided in the Uniformed Controlled Substances Act, and Title 69 RCW. In addition, violations of this Chapter are deemed to be a public nuisance and may be abated under the procedures set forth in state law for the abatement of public nuisances.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any section, sentence,
clause or phrase of this Ordinance.

Section 4. Publication and Summary. This Ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the City Council of the City of Liberty Lake this 27th day of January, 2015.

MAYOR STEVE PETERSON

ATTEST:

ANN SWENSON, City Clerk

APPROVED AS TO FORM:

SEAN P. BOUTZ, City Attorney
CERTIFICATION

I, Ann Swenson, the undersigned City Clerk of the City of Liberty Lake, of Spokane County, Washington, HEREBY CERTIFY that the foregoing Ordinance is a full, true, and correct copy of Ordinance No. 217 duly adopted at a special meeting of the City Council of said City, duly and regularly held at the regular meeting place thereof on January 27, 2015 of which meeting all members of said City Council had due notice and at which a majority thereof were present; and that at said meeting said Ordinance was adopted by the following vote: Unanimous.

AYES, and in favor thereof: Mayor Pro Tem Kaminskas, Council Members Brickner, Langford, Moore, Severs, and Dunne.

NAYS: None.

ABSENT: Council Member Kopelson.

ABSTAINED: None.

CITY OF LIBERTY LAKE

[Signature]

CITY CLERK
Residential Marijuana Cultivation and Processing

Residential marijuana cultivation and processing is an accessory use to a residential use in unincorporated areas of Boulder County. Marijuana grown as part of this use is intended to be grown by and for those living on the parcel, not for sale or provision to others. This use does not allow growing marijuana as a home occupation. Only plants grown on the parcel may be processed on the parcel. A total of six plants are allowed to be grown per parcel. The Boulder County Land Use Code allows for this use in multifamily structures, but landlords, building owners and HOAs may set additional controls or disallow this use. Those cultivating or processing marijuana must also comply with Section 14 and Section 16 of Article XVIII of the Colorado Constitution and other applicable state law.

The following sections of the Boulder County Land Use Code were updated in June 2016:

Residential Marijuana Growing Regulations

- Must be in a legal dwelling unit or accessory structure
- Not for the purpose of sale or profit
- Used by and for the individuals living on the parcel
- Maximum of six (6) plants may be grown per legal dwelling unit
- Processing of plants is limited only to those plants grown on the parcel
- Use by right in all districts as long as there is a legal dwelling unit
- Must not result in noise, vibration, light, odor, dust, smoke or particulate or other air pollution noticeable at or beyond the property line or shared dwelling unit wall
- Plants shall not be cultivated, produced, processed or possessed in common areas of multi-family or attached residential developments

Residential Marijuana Extraction Regulations

Allowed:

- Alcohol/ethanol extraction is permitted provided it is done without application of an open flame or open heat source and does not use more than 375ml of alcohol or ethanol during the extraction process.
- Food-based extraction is permitted including production of marijuana concentrate by extracting cannabinoids from marijuana through the use of propylene, glycol, glycerin, butter, olive oil, or other cooking methods.
- Water-based or dry-ice based extractions are permitted including production of marijuana concentrate by extracting cannabinoids from marijuana through the use of only water, ice, or dry ice.

Prohibited:

- Use of compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
- Use of supplemental ozone is prohibited
- Supplemental use of carbon dioxide is prohibited.
Please see Article 4-516(R) of the Boulder County Land Use Code for more information.

Definitions

Definition of a Marijuana Establishment – Article 4-512(I)
- Any location where more than six marijuana plants are cultivated, produced, tested or distributed.
- Permitted by right in T, B, C, LI, and GI
- Personal cultivation and Primary Caregiver cultivation facilities are limited to no more than 99 plants.

Definition of Primary Caregiver – Article 18-185B
- A person who meets the definition of primary caregiver under article XVII, section 14(1)(f) of the Colorado constitution and applicable laws.

Health and safety concerns

These regulations were developed to address health and safety impacts of residential marijuana cultivation and processing. The following summary outlines the potential impacts of not following these regulations along with general health information regarding marijuana use.

1. Fires and Explosions: Since the lighting needed to grow marijuana indoors is energy intensive, fires and explosions can result from overloading a power system with more than the six plants allowed in the Boulder County Land Use Code. Using flammable or combustible materials in extraction can also lead to fires and explosions.

2. Mold: To help prevent mold growth, use materials such as plastic or painted concrete for walls as they do not absorb water easily. Make sure your space has adequate ventilation as well.

Additional health and safety resources

Boulder County Public Health – Information on the impacts of use by youth (impaired learning and mental health risks); pregnancy and breastfeeding; physical health; and a variety of resources: www.MarijuanaHealthImpacts.org

State of Colorado – Information and resources on legal use; responsible use (storage, safety while impaired, infant care, edibles, growing at home, and secondhand smoke); medical use; and health effects (immediate, long-term, pregnancy/breastfeeding, youth, and addiction): www.colorado.gov/pacific/marijuana

Planning Information

Development Applications Under Review

Land Use Planning Review Processes

Planning Division

Planning Publications

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ORDINANCE No. 2017-1

BOARD OF COUNTY COMMISSIONERS
COUNTY OF PROWERS, STATE OF COLORADO

AN ORDINANCE REGULATING PERSONAL GROWING,
CULTIVATION AND PROCESSING OF MARIJUANA

WHEREAS, pursuant to C.R.S. §§30-11-1-1(1)(e), 30-11-103, and 30-11-107(1)(e), the Board of County Commissioners of Prowers County, Colorado (hereinafter "Board"), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the best interests of the County and its inhabitants, and is authorized to adopt regulations for the protection of the public health, safety and welfare of the inhabitants of Prowers County; and

WHEREAS, the current ordinances of Prowers County are inadequate to address the unique impacts of the personal growing, cultivation and processing of marijuana, conducted pursuant to and in compliance with Article XVIII, Section 14 and 16 of the Colorado Constitution (Amendment 20 and Amendment 64, respectively), which authorize persons to grow limited amounts of marijuana or assist others in growing marijuana; and

WHEREAS, Amendment 20 cedes general authority to local government to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores ("Commercial Marijuana Operations"); and

WHEREAS, the Board of County Commissioners of the County of Prowers, State of Colorado (the "Board") previously prohibited Commercial Marijuana Operations within unincorporated Prowers County; and

WHEREAS, neither Amendment 20 nor Amendment 64 permit local government to prohibit non-commercial unlicensed individual grow operations; and

WHEREAS, State regulations pertaining to Commercial Marijuana Operations are generally not directed toward non-commercial unlicensed individual grow operations; and

WHEREAS, this circumstance has resulted in a proliferation of non-licensed and unregulated marijuana grow operations that present significant health and public safety concerns; and

WHEREAS, the Board is authorized pursuant to C.R.S. §30-11-101 (2) "to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues"; and

WHEREAS, the Board is further authorized pursuant to C.R.S. §29-1.5-106(13.5) to regulate the growing of marijuana, commercially or otherwise; and
WHEREAS, the Board is further authorized pursuant to C.R.S. §9-7-113 to ban the use of compressed flammable gas in the extraction of THC or other cannabinoids in a residential setting; and

WHEREAS, the Board has determined that the adoption of regulations governing the growing, cultivating, and processing of marijuana is necessary and desirable for the health, safety, and welfare of the inhabitants of Prowers County; and

WHEREAS, this Ordinance does not unreasonably impair or impede the exercise of rights afforded citizens under Amendment 20 and Amendment 64; now therefore,

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Prowers County, Colorado, as follows:

Section I. Scope of Ordinance and Authority

This Ordinance applies within the unincorporated territory of Prowers County, Colorado, and applies to the growing, cultivating, and processing of marijuana for personal use on any lot, parcel, or tract of land by any person, including but not limited to patients, primary caregivers, or persons.

Section II. Definitions

The definitions contained in Amendment 20, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, and any regulations promulgated by the Colorado Department of Public Health and Environment and the Colorado Department of Revenue, as amended from time to time, are incorporated into this Ordinance by reference, including but not limited to, definitions of “Marijuana,” “Medical Marijuana,” “Patient,” and “Primary Caregiver.” All other applicable definitions are as stated herein, to wit:

a. "Accessory Structure" means a subordinate structure detached from but located on the same lot as the Primary Residence, the use of which is incidental and accessory to that of the primary residence.

b. "Accessory Use" means a use incidental to and subordinate to a Primary Residence.

c. "Primary Residence" means a residence where a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Primary Residence is evidenced by actual daily physical presence, use and occupancy of the residence and use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation and partaking of meals, regular mail delivery, vehicle registration, or credit, water and utility billing. A person shall have only one Primary Residence.
d. "Primary Use" means the main use of a structure or land, as distinguished from an Accessory Use.

**Section III. Growing, Cultivating, and Processing of Marijuana:**

a. Accessory Use to Primary Residence

Marijuana may only be grown, cultivated, or processed as an accessory use at the Primary Residence of the person conducting such activity, and only for such person's own use, or by a Primary Caregiver on behalf of a Patient.

b. Location of Growing, Cultivating, and Processing of Marijuana

1. Marijuana may only be grown, cultivated, or processed in a Primary Residence where residential use is the Primary Use of the structure or in an Accessory Structure to the Primary Residence on the same property.

2. The space used for the growing, cultivating, or processing of Marijuana shall be limited to a contiguous 1000 cubic foot volume.

3. The use of an Accessory Structure for the growing, cultivating, or processing of Marijuana shall only be permitted on a lot, parcel, or tract one acre in size or greater.

4. Marijuana shall not be grown, cultivated, or processed in more than one structure on any single lot, parcel, or tract.

5. Marijuana shall not be grown, cultivated, or processed within the common areas of a multi-family or attached residential development.

6. Any area used for the growing, cultivating, and processing of Marijuana shall be fully enclosed and locked ensuring accessibility only by the person growing, cultivating or processing the Marijuana for medical or personal use and to prevent access by children, visitors, casual passersby, or anyone not authorized by law to possess Marijuana.

7. Any area used for the growing, cultivating, or processing of Marijuana shall comply with all applicable building and fire codes, as amended and adopted, including plumbing, electrical and mechanical.
8. Nonresidential buildings or structures that are not accessory to a Primary Residence shall not be used for the growing, cultivating, or processing of Marijuana.

9. Marijuana shall not be grown, cultivated, or processed outdoors.

c. Marijuana Plant Limits

At any given time, no more than 12 Marijuana plants, in any stage of maturity, may be grown, cultivated or processed at a Primary Residence, inclusive of Accessory Structures.

d. Use of Compressed Flammable Gas Products or Flammable Liquids

No compressed flammable gas (e.g. butane) or flammable liquid may be used in the growing, cultivating, or processing of Marijuana. For purposes of this paragraph, "flammable liquid" means a liquid that has a flash point below one hundred degrees (100°) Fahrenheit, and includes all forms of alcohol and ethanol.

e. Cannot be Perceptible

The growing, cultivating, or processing of Marijuana shall not be perceptible from the exterior of the Primary Residence or Accessory Structure in which such activities occur, including, but not limited to:

1. Common visual observation.

2. Light pollution, glare, or brightness that disturbs the repose of another.

3. Undue vehicular or foot traffic, including unusually heavy parking in front of the Primary Residence or Accessory Structure.

f. Smell or Odor

The smell or odor of Marijuana growing, cultivating, or processing at a Primary Residence and Accessory Structure shall not be detectable by a person with a normal sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit.

g. Rental Property

Any lessee or tenant that uses a rental property, in whole or in part, for growing, cultivating, or processing of Marijuana shall obtain written, notarized permission from the property owner prior to establishing such use.
Section IV. Administration and Enforcement:

The Prowers County Sheriff shall be responsible for the administration and enforcement of this Ordinance.

Section V. Penalty for Violations:

Any person who violates this Ordinance from its effective date commits a class 2 petty offense under section 30-15-402(1), C.R.S. and, upon conviction thereof, shall be punished by a fine of not more than $1,000.00 for each separate violation, plus a surcharge of $10 under C.R.S. §30-15-402(2). Each day during which such violations exist shall be deemed a separate offense.

Section VI. Penalty Assessment Procedure:

The penalty assessment procedure provided in C.R.S. §16-2-201, C.R.S., may be followed by the arresting officer for any such violation of this Ordinance. Pursuant to the penalty assessment procedure, the violator may pay a fine in the amount of one thousand dollars ($1,000.00), plus a ten-dollar ($10) surcharge for the first and any subsequent violations of any of the provisions of this Ordinance. If the penalty assessment procedure is not utilized by a person cited for violating this Ordinance, and the alleged offender is ultimately found guilty by the Prowers County Courts, court costs and any additional financial requirements deemed necessary or appropriate to the Court may be assessed in addition to the fine.

Section VII. Disposition of Fines and Forfeitures:

All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Prowers County.

Section VIII. Additional Remedies:

The remedies provided in this Ordinance shall be cumulative and in addition to any other Federal, State or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section IX. Severability:

Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.
Section X. Safety Clause:

The Board of County Commissioners hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public welfare, health and safety.

Section XI. Effective Date.

In order to preserve the immediate health and safety of Prowers County and its residents, this Ordinance shall take effect immediately upon its adoption.

INTRODUCED, READ and ADOPTED on October 10, 2017.

CERTIFICATE

I hereby certify that the foregoing Ordinance No. 2017-1 was introduced, read and approved on first reading at the regular meeting of the Board of County Commissioners of the County of Prowers on October 10, 2017, and Notice of Ordinance was published in the Lamar Ledger, a newspaper of general circulation published in Prowers County, on October 19, 2017, and thereafter was adopted on second and final reading at a regular meeting of the Board of County Commissioners of the County of Prowers on November 14, 2017. Said Ordinance shall become effective as of passage, November 14, 2017.

Jana Coen, Clerk to the Board

State of Colorado )
) ss.
County of Prowers )

Subscribed and sworn to before me this 12th day of October, 2017, by Jana Coen, Clerk to the Board.

Beatrice M. Romero
Notary Public

My commission expires: 08-14-2019
CERTIFICATION

I, Jana Coen, Prowers County Clerk, do hereby certify that the foregoing Ordinance No. 2017-1, entitled: AN ORDINANCE REGULATING PERSONAL GROWING, CULTIVATION AND PROCESSING OF MARIJUANA, is a true, correct and complete copy from the records in my office, that said ordinance was duly adopted by the Board of County Commissioners of Prowers County, and that said ordinance is in full force and effect.

Jana Coen, Clerk to the Board
BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING AN
INTERIM ZONING ORDINANCE FOR
PRODUCTION OF MARIJUANA IN
THE UNINCORPORATED AREAS OF
SPOKANE COUNTY

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County
Commissioners of Spokane County, Washington, (sometimes hereinafter referred to as the “Board”), has
the care of the county property and management of county funds and business; and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board has
adopted a Comprehensive Plan for the unincorporated areas of Spokane County; and

WHEREAS, pursuant to the provisions of chapter 36.70 RCW, the Board of County
Commissioners of Spokane County, Washington, created a Planning Commission, hereinafter
referred to as the “Commission” and a Department of Building and Planning, hereinafter referred
to as the “Department”; and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board on May
5, 2004, under Spokane County Resolution No. 04-0461 adopted a new Zoning Code to
implement the Goals and Policies of the Comprehensive Plan, said regulation becoming effective
June 1, 2004 which has been amended from time to time; and

WHEREAS, RCW 36.70.795 provides that:

“A board that adopts a moratorium, interim zoning map, interim zoning ordinance, or
interim official control without holding a public hearing on the proposed moratorium,
interim zoning map, interim zoning ordinance, or interim official control, shall hold a
public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance,
or interim official control within at least sixty days of its adoption, whether or not the
board received a recommendation on the matter from the commission or department. If
the board does not adopt findings of fact justifying its action before this hearing, then the
board shall do so immediately after this public hearing. A moratorium, interim zoning
map, interim zoning ordinance, or interim official control adopted under this section may
be effective for not longer than six months, but may be effective for up to one year if a
work plan is developed for related studies providing such a longer period. A moratorium,
interim zoning map, interim zoning ordinance, or interim official control may be renewed
for one or more six-month periods if a subsequent public hearing is held and findings of
fact are made prior to each renewal.”

; and

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WHEREAS, RCW 36.70A.390 provides in pertinent part:

“A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for no longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.”

WHEREAS, moratoriums and interim zoning ordinances enacted under RCW 36.70.795 or RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70.795 and RCW 36.70A.390 authorize the enactment of a moratorium, interim zoning map, interim zoning ordinance or interim official control without holding a public hearing; and

WHEREAS, the State Environmental Policy Act codified in chapter 43.21C RCW provides that an environmental review must be conducted in conjunction with all major actions significantly affecting the quality of the environment. Washington Administrative Code provisions, specifically WAC 197-11-880 further provides:

“WAC 197-11-880 Emergency.

“Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.”

; and

WHEREAS, Initiative 502 was enacted in November of 2012. The implementation of this Initiative established a regulatory system to license producers, processors, and retailers of recreational marijuana; and

WHEREAS, in 2015, legislative amendments to chapter 69.50 RCW included merging medical and recreational marijuana licensed producers, processors, and retailers under the regulatory system (Second Substitute Senate Bill 5052, Chapter 70, Laws of 2015; and

WHEREAS, the Washington State Liquor and Cannabis Board has adopted a comprehensive set of regulations for licensing of producers, processors, and retailers in chapter 314-55 WAC; and

2 of 5
WHEREAS, in addition to the licensing requirements promulgated under chapter 314-55 WAC, cities, towns and counties may adopt zoning requirements, business licenses, and health and safety requirements pertaining to production, processing, and dispensing/sale of cannabis and cannabis products; and

WHEREAS, pursuant to RCW 36.70.765 and RCW 36.70.390, the Board adopted Zoning Code Amendment File No. 14-ZTA03 on January 27, 2015 regarding the production, processing and retail sale of recreational marijuana in the unincorporated areas of Spokane County, Washington (Resolution No. 15-0071); and

WHEREAS, subsequent to adoption of the Zoning Code Amendment File No. 14-ZTA-03 the Department and Spokane County Clean Air Agency received numerous complaints from citizens regarding the odor generated by marijuana production; and

WHEREAS, the performance standard for production of recreational marijuana, as specified in Text Amendment 14-ZTA-03 do not adequately mitigate the impacts associated with production of marijuana; and

WHEREAS, on November 29, 2016 the Board adopted an Interim Zoning Ordinance (Resolution #16-0915) regarding production of marijuana in the unincorporated areas of Spokane County. The Interim Zoning Ordinance specified that production of marijuana in unincorporated Spokane County is limited to an indoor facility consistent with the licensing requirements of the Washington State Liquor and Cannabis Board and all other applicable building code requirements; and

WHEREAS, after required public notice, the Board of County Commissioners of Spokane County held a public hearing on January 10, 2017 to consider renewing for a six-month time frame, the Interim Zoning Ordinance initially adopted on November 29, 2016; and

WHEREAS, on January 10, 2017, the Board affirmed the Interim Zoning Ordinance adopted by Resolution #16-0915 for a six month period until July 10, 2017 unless renewed by applicable statute (Resolution # 17-0065A); and

WHEREAS, subsequent to adoption of Resolution # 17-0065A, the Board held public workshops concerning the regulation of marijuana production where information gathered by staff, the Spokane Regional Clean Air Agency and from the public hearing were discussed, including regulation of production practices and canopy size as they relate to odor generation and the diffusion based on distance; the difference between odor masking and odor reduction; and the impacts of site specific characteristics such as topography and prevailing winds; the complaint zones of origin; and

WHEREAS, the Board is aware in March 2016, the legislature adopted Chapter 15.120 RCW authorizing an Industrial Hemp Research Program designed to license growers of all parts and varieties of the genera Cannabis that contains a THC concentration of 0.3 percent or less by dry weight; and

WHEREAS, the Board is aware in April 2017, the legislature amended Chapter 69.50 RCW excluding industrial hemp as defined under RCW 15.150.010 from the definition of controlled substance; and

WHEREAS, and the number growers licensed under the Industrial Hemp Research Program and the removal of Industrial Hemp from the schedules of controlled substances under Chapter 69.50 RCW, as well as the localized impact of such grows is unknown at this time; and
WHEREAS, the Interim Zoning Ordinance adopted under Resolution #16-0065A affirmed under Resolution #17-0065A, does not adequately mitigate the impacts associated with indoor and outdoor production of marijuana and that further regulatory measures are necessary; and

WHEREAS, if the Board were to advertise its intent to impose new regulations concerning production of marijuana in unincorporated Spokane County and allow existing interm zoning ordinance adopted affirmed under 17-0065A to expire, the number of applications for licenses to produce marijuana in unincorporated Spokane County that would occur prior to adoption of amendments to the Spokane County Zoning Code could undermine the Boards ability to regulate such activities, and would for all practical purposes further prohibit marijuana production in the unincorporated area until the process was completed; and

WHEREAS, if the County were to begin public consideration of an amendment to the Zoning Code without first adopting an interim zoning ordinance, those involved in the process of marijuana production could frustrate effective land use planning by submitting applications for licenses to produce marijuana in unincorporated Spokane County and further aggravate the odor generated by marijuana production increasing concerns of public health, safety, and welfare of the adjoining/abutting property owners; and

WHEREAS, if an interim zoning ordinance is not invoked, the filing of applications or licenses to produce marijuana in unincorporated Spokane County during the time necessary to adopt an amendment to the Spokane County Zoning Code is likely to impact effective long-range planning and result in the status quo not being preserved during consideration of amendments to the Zoning Code for Spokane County; and

WHEREAS, it is in the best interest of the public health, safety, and welfare to adopt an Interim Zoning Ordinance as authorized under RCW 36.70.795 and RCW 36.70A.390 applicable to the production of marijuana in unincorporated Spokane County; and

WHEREAS, this measure is necessary to preserve the County’s ability to effectuate Long Range Planning decisions in a comprehensive manner, and to implement effective local regulation of licensed marijuana producers; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this resolution is exempt from the requirements of a threshold determination under the State Environmental Policy Act.

NOW, THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Spokane County, Washington, pursuant to the provisions of RCW 36.32.120(6), RCW 36.70.795, RCW 36.70A.390, RCW 36.70A.390, RCW 36.70A.130 and WAC 197-11-880, that the Board declares an emergency and in so doing does adopt an Interim Zoning Ordinance which would allow for production of marijuana in unincorporated Spokane County to an indoor/outdoor facility consistent with the licensing requirements of the Washington State Liquor and Cannabis Board, applicable building code requirements, and subject to a Conditional Use Permit (CUP) in resource and rural lands with detailed performance standards as set forth fully in Attachment “A” incorporated herein by reference.

BE IT FURTHER RESOLVED that adoption of this Interim Ordinance has the effect of repealing the Interim Zoning Ordinance initially adopted on November 29, 2016 (Resolution#16-0915) and affirmed on January 10, 2017 (Resolution# 17-0065A).
BE IT FURTHER RESOLVED that the Board of County Commissioners adopts each and every recital herein above as findings of fact to support the above action and additionally the Board does:

1) Direct the staff of the Spokane county Division of Building and Planning together with the Spokane county Planning Commission to expeditiously initiate an amendment to the Spokane County Zoning Code with respect to the production of marijuana in unincorporated Spokane County consistent with the licensing requirements of the Washington State Liquor and Cannabis Board, applicable building code requirements, and as a conditional use permit in resource and rural lands.

2) Direct the Spokane County Division of Building & Planning to schedule and give proper notice of any hearings and meetings held under (1) above consistent with applicable regulations.

3) Determine to hold a public hearing on the Interim Zoning Ordinance within sixty (60) days of the adoption of this resolution.

4) Acknowledge that the Interim Zoning Ordinance adopted herein may be effective for not more than six (6) months but may be effective for up to one (1) year if a work plan is developed for a longer period; and

5) Acknowledge that an Interim Zoning Ordinance may be renewed for one or more six (6) month period if subsequent public hearing is held and findings of fact are made prior to each renewal.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Spokane County, Washington that the Interim Zoning Ordinance adopted herein shall not affect:

(1) the indoor/outdoor production of marijuana in unincorporated Spokane County which is duly licensed by the Washington State Liquor and Cannabis Board as of the date and time of this Resolution set forth herein below, or

(2) any complete permit for indoor/outdoor production of marijuana in the unincorporated Spokane County which has been applied for and is not issued by the Washington State Liquor and Cannabis Board, or

(3) any complete permit for indoor/outdoor production which has been applied for and issued prior to the effective date and time of this Resolution by the Washington State Liquor and Cannabis Board but for which production has not commenced.

BE IT FURTHER RESOLVED that the adoption of the Interim Zoning Ordinance is exempt from the requirements of the threshold determination under the State Environmental Policy Act pursuant to WAC 197-11-880.
PASSED, ADOPTED, AND EFFECTIVE as of 2:18 p.m. on the 13th day of June, 2017.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

AL FRENCH, Chair

JOSH KERNS, Vice-Chair

SHELLY O'QUINN, Commissioner

ATTEST:

Ginna Vasquez, Clerk of the Board
ATTACHMENT “A”

(Underlined Language Added, Lined Out Language Deleted)

INTERIM DEVELOPMENT REGULATION FOR PRODUCTION OF MARIJUANA IN THE UNINCORPORATED AREAS OF SPOKANE COUNTY

14.300.100 Definitions

Agriculture/Agricultural: Relating to the science or art of cultivating soil or producing crops to be used or consumed directly or indirectly by man or livestock, or raising of livestock. For purposes of this Title the term agriculture/agricultural excludes the production, processing, and sale of any controlled substances, including marijuana, cannabis and its derivatives.

Marijuana: Means all parts of the plant Cannabis, as defined in Title 69.50 RCW as it now exists or may be amended. Marijuana is a controlled substance which requires greater regulatory controls than production and processing of agricultural products that are not controlled substances. Spokane County allows but regulates the production, processing and sale of marijuana and requires marijuana operations not only to be validly licensed by the State but also to comply with local development regulations.

Temporary Growing Structures: Means a, temporary growing structure with sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and used to provide plants with either frost protection or increased heat retention. Installation of other than listed portable mechanical equipment or listed, portable lighting fixtures is not allowed. Temporary structures are those that are erected for a period of less than 180 days within any twelve-month period.

Greenhouse- A structure or a thermally isolated area of a building that maintains a specialized sunlit environment that is used exclusively for, and essential to, the cultivation, protection or maintenance of plants. Greenhouses may consist of rigid, or synthetic construction materials, and are subject to permitting. Compliance with the provisions of the International Codes as adopted by Washington State under RCW 19.27, and Spokane County Code shall be demonstrated. Greenhouses are those that are erected for a period of 180 days or more within a twelve-month period.

Controlled Plant Growth Structures (indoor grow) - Group F and U buildings that utilize the interior of the structure or portions thereof, that are specifically controlled to facilitate and enhance plant growth and production by manipulating various indoor environmental conditions. Controlled indoor environment variables include, but are not limited to, temperature, air quality, humidity, and carbon dioxide. These activities take place in permanent buildings/structures authorized by building and other associated permits.

Commercial

14.612.220 Commercial Zones Matrix

Table 612-1, Commercial Zones Matrix

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### Commercial Uses

<table>
<thead>
<tr>
<th>Activity</th>
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<td>Marijuana Processing Indoor Recreational</td>
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<tr>
<td>Marijuana Retail Sales Recreational</td>
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### Industrial

**14.614.220 Industrial Zones Matrix**

*Table 614-1, Industrial Zones Matrix*

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<tr>
<td>Marijuana Production Indoor Recreational</td>
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### Resource Lands

**14.616.220 Resource Lands Matrix**

*Table 616-1 Resource Lands Matrix*

### Agricultural Uses

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<td>Є CUP</td>
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<td>Marijuana Agricultural, Production, Indoor, Marijuana, Recreational</td>
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<td>Marijuana Agricultural, Recreational Processing (Limited to packaging and labeling of useable marijuana)</td>
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### Business Uses

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</table>

### 14.616.230 Uses with Specific Standards

20. **Marijuana, Agricultural, Recreational, Production, Outdoor, and Indoor; Marijuana, Agricultural, Recreational, Processing (limited to packaging and labeling of useable marijuana), (LTA, STA, F, zones)**

   a. The use(s) must meet all licensing requirements of the Washington State Liquor Control Board.

   b. The use(s) shall employ odor control measures as necessary to comply with SRCCA Regulation 1, Section 6.04 — Emission of Air Contaminant: Detriment to Person or

   [June 2017|Page 2]
Property. Such odor control measures may include, but are not limited to the following: use of carbon adsorption media or other controls at all exhaust air discharge points, use of vertical exhaust vents or stacks, and/or completely enclosing the operation and recirculating ventilation air within the enclosure.

c. Outdoor or indoor production or limited processing facility, temporary growing structures, greenhouse, or structures must be located a minimum of 100 feet from any front property line; except that the 100 foot setback shall not apply to structures existing on the property at the time of adoption of this ordinance, 50 feet from any side, flanking, or rear property line, and 300 feet from any primary residence on an adjacent property. The distance from any primary residence on an adjacent property and/or from the side, rear, or flanking property line can be reduced by up to fifty percent (50%) if the adjacent property owner signs a waiver. Provided, however, that at no time shall the parcel, lot or tract for a Tier 1 permit be less than three (3) acres and for Tier 2 and/or Tier 3 permits be less than five (5) acres in size. The terminology "temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

14.616.240 Conditional Uses: Standards and Criteria

16. Marijuana Production Outdoor and Indoor (LTA, STA, F zones)

   a. Only currently licensed marijuana producers, validly issued by the Washington State Liquor and Cannabis Board, compliant with all local development regulations shall be allowed. When a conflict exists such that the Washington State Liquor and Cannabis Board has issued a license in a location where activity is prohibited by local regulations, the local regulations shall prevail.

   b. The operation shall employ odor control measures as necessary to comply with Spokane Regional Clean Air Agency Regulation 1, Section 6.04 - Emission of Air Contaminant: Detriment to Person or Property. Such odor control measures may include, but are not limited to the following: use of environmental buffers, use of carbon absorption media or other controls at all exhaust air discharge points, use of vertical exhaust vents or stacks, and/or completely enclosing the operation and recirculating ventilation air within the enclosure.

   c. The Hearing Examiner shall determine the setback requirement based on site specific and operational characteristics (such as topography, canopy size, use of structures to enhance plant growth, use of odor control systems, use of temporary growing structures, ventilation system, etc.) and probable impacts to neighboring properties; but in no case shall setbacks be less than a minimum of 100 feet from any front property line; 100 feet from any side, flanking, or rear property line; and 300 feet from any primary residence on an adjacent property. Minimum setback distances from any primary residence on an adjacent property and/or from the side, rear, or flanking property line may be reduced by up to fifty percent (50%) provided the affected property owner of record grants the reduced distance through a signed and notarized waiver, contract, covenant or other document is executed with specific reference to the assessor parcels impacted and a copy is recorded with the Spokane County Auditor.

   d. No Marijuana production shall be allowed on lots or parcels below the minimum lot size of the zone, on nonconforming lots, and on lots within a rural cluster development.

   e. Outdoor production may utilize temporary Growing Structures as defined in this Title and regulated in the building codes.
f. Lot coverage for indoor production structures shall not exceed 20% of the lot.

g. Lot coverage for outdoor production shall be determined by the Hearing Examiner based on site specific and operational characteristics (such as topography, canopy size, use of temporary structures to enhance plant growth, use of odor control systems, use of ventilation system, etc.) and potentially adverse environmental impacts (such as odor, noise, dust, light, traffic) to neighboring properties; but in no case shall exceed 50% of the lot dedicated to the production/processing of marijuana.

h. The use shall be subject to restrictions and conditions, as may be imposed by the Hearing Examiner under chapter 14.404.

Rural

14.618.220 Rural Zones Matrix

Table 618-1, Rural Zones Matrix

<table>
<thead>
<tr>
<th>Agricultural Uses</th>
<th>Rural-5</th>
<th>Rural Traditional</th>
<th>Rural Activity Center</th>
<th>Urban Reserve</th>
<th>Rural Conservation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural, Marijuana, Recreational Production, Outdoor</td>
<td>I-N</td>
<td>L: CUP</td>
<td>N</td>
<td>I-N</td>
<td>L: CUP</td>
</tr>
<tr>
<td>Agricultural, Marijuana, Recreational Production, Indoor</td>
<td>I-N</td>
<td>L: CUP</td>
<td>N</td>
<td>I-N</td>
<td>L: CUP</td>
</tr>
<tr>
<td>Agricultural, Marijuana, Recreational Processing (Limited to packaging and labeling of useable marijuana)</td>
<td>I-N</td>
<td>L: N</td>
<td>N</td>
<td>I-N</td>
<td>L: N</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Business Uses</th>
<th>Rural-5</th>
<th>Rural Traditional</th>
<th>Rural Activity Center</th>
<th>Urban Reserve</th>
<th>Rural Conservation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Sales, Marijuana, Retail Sales Recreational</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

14.618.230 Uses with Specific Standards

23. Marijuana, Agricultural, Recreational, Production, Outdoor, and Indoor; Marijuana, Agricultural, Recreational, Processing (limited to packaging and labeling of useable marijuana); (R-5, RT, UR, RCV, zones)

a. The use(s) must meet all licensing requirements of the Washington State Liquor Control Board.

b. The use(s) shall employ odor control measures as necessary to comply with SRCCA Regulation 1, Section 6.04—Emission of Air Contaminant: Detriment to Person or Property. Such odor control measures may include, but are not limited to the following: use of carbon adsorption media or other controls at all exhaust air discharge points, use of vertical exhaust vents or stacks, and/or completely enclosing the operation and recirculating ventilation air within the enclosure.
e. Outdoor or indoor production or limited processing facility, temporary growing structures, greenhouse, or structures must be located a minimum of 100 feet from any front property line; except that the 100 foot setback shall not apply to structures existing on the property at the time of adoption of this ordinance, 60 feet from any side, flanking, or rear property line; and 300 feet from any primary residence on an adjacent property. The distance from any primary residence on an adjacent property and/or from the side, rear, or flanking property line can be reduced by up to fifty percent (50%) if the adjacent property owner signs a waiver. Provided however, that at no time shall the parcel, lot or tract for a Tier 4 permit be less than three (3) acres and for Tier 2 and/or Tier 3 permits be less than five (5) acres in size. The terminology “temporary growing structure” means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

14.618.240 Conditional uses: Standards and Criteria

29. Marijuana Production Outdoor and Indoor (RT, RCV, zones)

   a. Only currently licensed marijuana producers’ validly issued by the Washington State Liquor and Cannabis Board, compliant with all local development regulations shall be allowed. When a conflict exists such that the Washington State Liquor and Cannabis Board has issued a license in a location where activity is prohibited by local regulations, the local regulations shall prevail.

   b. The operation shall employ odor control measures as necessary to comply with Spokane Regional Clean Air Agency Regulation 1, Section 6.04 - Emission of Air Contaminant: Detriment to Person or Property. Such odor control measures may include, but are not limited to the following: use of environmental buffers, use of carbon absorption media or other controls at all exhaust air discharge points, use of vertical exhaust vents or stacks, and/or completely enclosing the operation and recirculating ventilation air within the enclosure.

   c. The Hearing Examiner shall determine the setback requirement based on site specific and operational characteristics (such as topography, canopy size, use of structures to enhance plant growth, use of odor control systems, use of temporary growing structures, ventilation system, etc.) and probable impacts to neighboring properties; but in no case shall setbacks be less than a minimum of 100 feet from any front property line; 100 feet from any side, flanking, or rear property line; and 300 feet from any primary residence on an adjacent property. Minimum setback distances from any primary residence on an adjacent property and/or from the side, rear, or flanking property line may be reduced by up to fifty percent (50%) provided the affected property owner of record grants the reduced distance through a signed and notarized waiver, contract, covenant or other document is executed with specific reference to the assessor parcels impacted and a copy is recorded with the Spokane County Auditor.

   d. No Marijuana production shall be allowed on lots or parcels below the minimum lot size of the zone, on nonconforming lots, and on lots within a rural cluster development.

   e. Outdoor production may utilize temporary Growing Structures as defined in this Title and regulated in the building codes.

   f. Lot coverage for indoor production structures shall not exceed 20% of the lot.
g. Lot coverage for outdoor production shall be determined by the Hearing Examiner based on site specific and operational characteristics (such as topography, canopy size, use of temporary structures to enhance plant growth, use of odor control systems, use of ventilation system, etc.) and potentially adverse environmental impacts (such as odor, noise, dust, light, traffic) to neighboring properties; but in no case shall exceed 50% of the lot dedicated to the production/processing of marijuana.

h. The use shall be subject to restrictions and conditions, as may be imposed by the Hearing Examiner under chapter 14.404.

Mineral Lands

14.620.210 Mineral Lands Zone Matrix

Table 620-1, Mineral Lands Matrix

<table>
<thead>
<tr>
<th>Mineral Lands Zone Matrix Use</th>
<th>ML</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marijuana Production Outdoor Recreational</td>
<td>L-N</td>
</tr>
<tr>
<td>Marijuana Production Indoor Recreational</td>
<td>L-N</td>
</tr>
<tr>
<td>Marijuana Processing, Recreational (Limited to packaging and labeling of useable marijuana)</td>
<td>L-N</td>
</tr>
<tr>
<td>Marijuana Retail Sales Recreational</td>
<td>N</td>
</tr>
</tbody>
</table>

14.620.220 Uses with Specific Standards

3. Marijuana, Agricultural, Recreational, Production, Outdoor, and Indoor; Marijuana, Agricultural, Recreational, Processing (limited to packaging and labeling of useable marijuana); (M. zones)
   a. The use(s) must meet all licensing requirements of the Washington State Liquor Control Board.
   b. The use(s) shall employ odor control measures as necessary to comply with SRCCA Regulation 1, Section 6.04 – Emission of Air Contaminant: Detriment to Person or Property. Such odor control measures may include, but are not limited to the following: use of carbon adsorption media or other controls at all exhaust air discharge points, use of vertical exhaust vents or stacks, and/or completely enclosing the operation and recirculating ventilation air within the enclosure.
   c. Outdoor or indoor production or limited processing facility, temporary growing structures, greenhouse, or structures must be located a minimum of 100 feet from any front property line; except that the 100 foot setback shall not apply to structures existing on the property at the time of adoption of this ordinance; 50 feet from any side, flanking, or rear property line; and 300 feet from any primary residence or an adjacent property. The distance from any primary residence on an adjacent property and/or from the side, rear, or flanking property line can be reduced by up to fifty percent (50%) if the adjacent property owner signs a waiver. Provided however, that at no time shall the parcel, lot or tract for a Tier 1 permit be less than three (3) acres and for Tier 2 and/or Tier 3 permits be less than five (5) acres in size. The terminology "temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.
ARTICLE VI

EMISSIONS PROHIBITED

ADOPTED: June 9, 1969

REVISED: October 3, 2013

EFFECTIVE: November 12, 2013

SECTION 6.01 OUTDOOR BURNING

A. Purpose. (WAC 173-425-010(1-3))

This Section establishes controls for outdoor burning in Spokane County in order to:

1. Minimize or prohibit outdoor burning to the greatest extent practicable.

2. Minimize or eliminate the impact of emissions from outdoor burning by defining conditions under which outdoor burning may be conducted.

3. Encourage the development and specify the use of reasonable alternatives to outdoor burning. Reasonable alternatives are methods for disposing of organic refuse (such as natural vegetation) that are available, reasonably economical, and less harmful to the environment than burning.

4. Geographically limit outdoor burning in order to assure continued attainment of the National Ambient Air Quality Standards for carbon monoxide (CO) and fine particulate matter (PM$_{2.5}$) as specified in 40 CFR Part 50.

B. Applicability. (WAC 173-425-020)

1. This Section applies to all outdoor burning in Spokane County except:

   a. Silvicultural burning. (RCW 70.94.6534(1) & Chapter 332-24 WAC)

      Silvicultural burning is related to the following activities for the protection of life or property and / or the public health, safety, and welfare:

      i. Abating a forest fire hazard;
Article VI – Page 2 through 61 deleted as irrelevant to this report. To see the full document please go to: https://www.spokanecleanair.org/documents/regulation_docs/ARTICLE-VI.pdf
SECTION 6.18 STANDARDS FOR MARIJUANA PRODUCTION AND MARIJUANA PROCESSING

(A) Purpose. The production and processing of marijuana emits air contaminants. Section 6.18 establishes standards to minimize air contaminants from stationary sources that produce or process marijuana.

(B) Applicability. This Section applies to all persons or entities having an active Washington State Liquor and Cannabis Board (LCB) license for marijuana production operations and marijuana processing operations in Spokane County, unless exempted under Section 6.18(H)(1).

(C) Definitions. All definitions in Regulation I, Article I, Section 1.04 apply to Section 6.18, unless otherwise defined in this Section. Unless a different meaning is clearly required by context, words and phrases used in this Section will have the following meaning:

1. Control of environmental conditions means modifying surroundings to facilitate plant growth, may include, but is not limited to; lighting, temperature, relative humidity, and carbon dioxide levels. For implementation of Section 6.18, watering plants and short term covering of plants for a portion of each day as needed for frost protection are not considered control of environmental conditions.

2. Indoor marijuana production and indoor marijuana processing means production or processing occurring in a fully enclosed building that is permanently affixed to the ground, has permanent rigid walls, a roof that is permanent and non-retractable, and doors. The building is equipped to maintain control of environmental conditions. Hoop houses, temporary structures, or other similar structures are not considered indoor.

3. Joint producers and processors means multiple marijuana production and processing operations on the same parcel.

4. Marijuana means all parts of the cannabis plant, as defined in Chapter 69.50 RCW as it now exists or as amended.

5. Marijuana concentrates means substances created by extracting oils from marijuana plant material.

6. Other marijuana production means production that is not indoor or outdoor as defined in this Section. Examples of other marijuana production include production in hoop houses, temporary structures, or other similar structures.

7. Outdoor marijuana production means production occurring on an expanse of open or cleared ground (no structure of any kind), during Spokane County’s customary outdoor growing season, without control of environmental conditions.

8. Processor (process, processing) means LCB licensed operations that dry, cure, extract, compound, convert, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products.
(9) Producer (production, producing) means LCB licensed operations that propagate, grow, harvest, and trim marijuana to be processed.

(10) Responsible person means any person who owns or controls property on which Section 6.18 is applicable.

(D) Requirements. All persons or entities subject to the requirements of Section 6.18 must comply with the following:

(1) Production must occur indoors or outdoors, as defined in 6.18(C), unless the operation has an Agency granted production exemption under Section 6.18(H)(2).

(2) All processing must occur indoors as defined in Section 6.18(C).

(3) Indoor production and processing requirements:
   (a) Control equipment and facility design:
      1. Operations must be equipped with air pollution control equipment that is properly sized for the air flow to be controlled. Air pollution control equipment may include, but is not limited to, carbon adsorption within the facility, carbon filtration on facility exhaust points, vertical exhaust stacks. Air pollution control equipment is not required for windows, doors, or other openings, provided these openings are kept closed except as needed for active ingress or egress; or
      2. Operations must be designed to prevent exhaust from production and processing operations directly to the outside; or
      3. Both.
   (b) Operations must meet Regulation I, Article VI, Section 6.04.

(4) Outdoor production requirements:
   (a) Operations must meet Regulation I, Article VI, Section 6.04.

(5) Other marijuana production requirements:
   (a) Other marijuana production, in-operation prior to Section 6.18 effective date (XX/XX/XXXX), must have an Agency granted production exemption under Section 6.18(H)(2), and comply with the conditions of the exemption.
   (b) Other marijuana production operations with an Agency granted production exemption must meet the odor standard in Article VI, Section 6.04(D)(1), at the property line and beyond. This requirement applies to all marijuana production and processing operations at the facility.

(6) Operation and maintenance plan. Air pollution control equipment must be operated and maintained in accordance with the manufacturer’s recommendations. An operation and maintenance plan for the air pollution control equipment must be available on-site. The plan must include written operating instructions and maintenance schedules. Records shall be kept of the dates and description of all maintenance and repair performed on the air pollution control equipment. Records must be kept on-site for the previous 24 months and provided to the Agency upon request.
(7) Notification of change in operations. Written notification must be submitted to the Agency no later than thirty (30) days after operational changes occur. Operational changes include: change in registration information provided under Article IV, new installation of air pollution control equipment, modification or replacement of existing air pollution control equipment, or change in facility design to control air contaminant emissions.

(8) Harvest schedule. Written notification from outdoor producers and other marijuana producers must be submitted to the Agency no later than thirty (30) days prior to the start of harvest. The written notification must include harvest dates and locations.

(E) Compliance with Other Laws and Regulations. Compliance with Regulation I, Article VI, Section 6.18, does not constitute an exemption from compliance with other Sections of Regulation I, or other laws or regulations.

(F) Joint Producers, Processors and Responsible Persons. If there is a violation of Regulation I, Article VI, Section 6.04, a Notice of Violation may be issued to all joint producers and processors on the parcel, and all responsible persons.

(G) Compliance Schedule. All persons or entities subject to the requirements of Article VI, Section 6.18 must be in compliance with Section 6.18 requirements as follows:

(1) Existing producers and processors in-operation before the Section 6.18 effective date (XX/XX/XXXX), have twelve (12) months from the effective date to achieve compliance with Section 6.18 requirements. Requirements of Article VI, Section 6.04 remain applicable during this twelve (12) month period.

(2) New producers and processors or expansion at existing producers and processors, that begin or expand operations after XX/XX/XXXX, must be in full compliance with Section 6.18 requirements before production and/or processing begins.

(H) Exemptions.

(1) Processing exemption. Processors that purchase only marijuana concentrates (e.g. marijuana oil) to manufacture marijuana-infused products may apply for an exemption to the standards given in Section 6.18. Production and direct processing of marijuana plants and plant material is not allowed at a processor with an Agency granted processing exemption.

(a) A complete processing exemption application must be submitted using Agency forms.

(b) The Agency will review the processing exemption application once all information the Agency deems necessary for a determination is received. The Agency may request additional information necessary to complete the review. Upon completion of the review,
the Agency will make a determination to grant or deny the processing exemption in writing. If denied, compliance with Section 6.18 is required.

(c) Once a processing exemption is granted, the processor must comply with the exemption conditions.

(d) Failure to comply with the processor exemption conditions may result in revocation of the processor exemption, issuance of a Notice of Violation, or both. If the processor exemption is revoked, compliance with Section 6.18 is required.

(2) Production exemption. Other marijuana producers, in-operation prior to the Section 6.18 effective date (XX/XX/YYYY), may apply for an exemption from Section 6.18(D)(1). The exemption is not available to producers that begin or expand operations after XX/XX/YYYY.

(a) A production exemption application must be submitted within one hundred-eighty (180) days of the Section 6.18 effective date, using Agency forms. Each application must include the application fee, as listed in the Fee Schedule.

(b) Within thirty (30) days of receipt of a production exemption application the Agency will perform a completeness review. The Agency may request additional information necessary to complete the application. Once the application is determined to be complete, the Agency has sixty (60) days to grant or deny the production exemption in writing, unless the applicant is notified that additional time is needed. If a production exemption is denied, compliance with Section 6.18(D)(1) is required.

(c) Once a production exemption is granted, the producer must comply with the production exemption conditions.

(d) Failure to comply with the production exemption conditions may result in revocation of the exemption, issuance of a Notice of Violation, or both. If the production exemption is revoked, compliance with Section 6.18(D)(1) is required.
Colorado
Department of Revenue

Marijuana Enforcement Division
1 CCR 212-2

Permanent Rules Related to the Colorado Retail Marijuana Code

September 9, 2013
STATEMENT OF BASIS AND PURPOSE – COLORADO RULES GOVERNING RETAIL MARIJUANA

On November 6, 2012, Colorado voters approved an amendment to the Colorado Constitution, Article XVIII, Section 16, popularly known as “Amendment 64,” which directed the Colorado Department of Revenue to promulgate rules governing businesses that cultivate and sell Retail Marijuana. The amendment was proclaimed into the Colorado Constitution on December 10, 2012.

Because Amendment 64 presented issues of first impression in Colorado and the United States, along with very short timeframes for implementation, Governor John Hickenlooper established the Amendment 64 Implementation Task Force, co-chaired by Executive Director of the Department of Revenue Barbara Brohl and the Governor’s Chief Legal Counsel Jack Finlaw, on December 10, 2012. The Governor directed the Task Force “to identify the legal, policy, and procedural issues that must be resolved, and to offer suggestions and proposals for legislative, regulatory, and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64.” The Task Force, assisted by several Working Groups, provided extensive policy recommendations to the Colorado General Assembly.

The Colorado General Assembly adopted three bills during the 2013 legislative session to implement Amendment 64, and Colorado Governor John Hickenlooper signed those bills into law on May 28, 2013. Amendment 64 and the implementing legislation (particularly, House Bill 13-1317) required that the State Licensing Authority, the Executive Director of the Colorado Department of Revenue, promulgate certain rules on or before July 1, 2012. To comply with those requirements within the short period between adoption of the legislation and required promulgation of rules, the State Licensing Authority adopted emergency rules governing Retail Marijuana in the state of Colorado.

Immediately after adopting the emergency regulations, the Department of Revenue convened five representative groups, known as working groups, which provided input and substantive suggestions regarding proposed rules governing Retail Marijuana Establishments and Medical Marijuana Businesses in Colorado. Each working group discussed a different set of issues, broken down as follows: Licensing, Licensed Premises, Transportation, and Storage; Licensed Entities and Inventory Tracking; Record Keeping, Enforcement and Discipline; Labeling, Packaging, Product Safety & Marketing; and Medical Differentiation. Representatives from law enforcement, the Governor’s Office, the Attorney General’s Office, the Department of Public Health and Environment, local authorities, industry members, trade
industries, child protection advocates, and subject matter experts in the fields of substance abuse, toxicology, pharmacology and marketing participated in the working groups.

On July 15, 2013, the State Licensing Authority filed a Notice of Rulemaking with the Colorado Secretary of State. Since that time, many written comments from the public have been submitted. On August 20 and 21, 2013, a rulemaking hearing was held regarding the proposed rules, and many members of the public provided oral testimony. The public was informed that written comments on the proposed rules would be accepted until 5:00 p.m. on August 27, 2013, and many additional written comments were submitted.

The State Licensing Authority has considered the rulemaking record. That record includes all materials considered by or produced by the Governor’s Amendment 64 Implementation Task Force and its working groups; the oral and written record of the meetings of the State Licensing Authority’s rulemaking working groups; all written comments submitted regarding the proposed rules; and all oral testimony provided during the August 20 and 21, 2013 rulemaking hearing.

The State Licensing Authority has also considered the direction provided by the United States Department of Justice through an August 29, 2013 letter from United States Attorney General Eric Holder to Governors John Hickenlooper of Colorado and Jay Inslee of Washington, and an accompanying memorandum to all United States Attorneys from Deputy Attorney General James M. Cole. Through this correspondence, the United States Department of Justice has clarified that it will continue to enforce the Controlled Substances Act in Colorado, but that it will not challenge Colorado’s ability to regulate the Retail Marijuana industry in accordance with state law, based upon the expectation that the state and local governments will implement strong and effective regulatory and enforcement systems that address public safety, public health and other law enforcement interests. Some of those federal law enforcement priorities of particular relevance to these rules include preventing the distribution of marijuana to minors, preventing the diversion of marijuana from states where it is legal under state law to other states, and preventing the exacerbation of adverse public health consequences associated with marijuana use. As an illustration, Deputy Attorney General Cole noted that the federal interest in preventing the distribution of marijuana to minors “would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.”

In adopting these rules, the State Licensing Authority is complying with the mandates and objectives set forth by the people of the State of Colorado through Amendment 64 and the Colorado General Assembly through House Bill 1317. These rules are designed not to make the operation of Retail Marijuana Establishments unreasonably impracticable, but also promote public safety and ensure compliance with constitutional and statutory guidelines. These rules must implement the extensive regulatory requirements set forth in Amendment 64 and House Bill 13-1317. Above all though, these rules accomplish the state of Colorado’s guiding principle through this process: to create a robust regulatory and enforcement environment that protects public safety and prevents diversion of Retail Marijuana to individuals under the age of 21 or to individuals outside the state of Colorado.
STATEMENT OF ADOPTION

To: Ron Kammerzell, Senior Director of Enforcement
From: Barbara J. Brohl
Re: Statement of Adoption

1 CCR 212-2, Series R 100 through Series R 1400, Retail Marijuana Rules

Pursuant to the state Administrative Procedure Act, Title 24, Article 4, C.R.S. (2013), I, Barbara J. Brohl, Executive Director of the Colorado Department of Revenue and State Licensing Authority, promulgate the following rules:

- New Permanent Rules, Retail Marijuana - Rule R 100 Series - General Applicability;
- New Permanent Rules, Retail Marijuana - Rule R 200 Series - Licensing;
- New Permanent Rules, Retail Marijuana - Rule R 300 Series - The Licensed Premises;
- New Permanent Rules, Retail Marijuana - Rule R 400 Series - Retail Marijuana Stores;
- New Permanent Rules, Retail Marijuana - Rule R 500 Series - Retail Marijuana Cultivation Facilities;
- New Permanent Rules, Retail Marijuana - Rule R 600 Series - Retail Marijuana Manufacturing Facilities;
- New Permanent Rules, Retail Marijuana - Rule R 700 Series - Retail Marijuana Testing Facilities;
- New Permanent Rules, Retail Marijuana - Rule R 800 Series - Transport and Warehousing;
- New Permanent Rules, Retail Marijuana - Rule R 900 Series - Business Records and Reporting;
- New Permanent Rules, Retail Marijuana - Rule R 1000 Series - Labeling, Packaging, and Products Safety;
- New Permanent Rules, Retail Marijuana - Rule R 1100 Series - Signage and Advertising;
- New Permanent Rules, Retail Marijuana - Rule R 1200 Series - Enforcement;
- New Permanent Rules, Retail Marijuana - Rule R 1300 Series - Discipline; and
- New Permanent Rules, Retail Marijuana - Rule R 1400 Series - Division, Local Jurisdiction, and Law Enforcement Procedures

In addition, upon the effective date of these rules, I repeal all remaining Retail Marijuana emergency rules that were promulgated and effective June 26, 2013 and all Retail Marijuana emergency rules that were promulgated and effective September 9, 2013.

The new rules are adopted this 9th day of September, 2013.

Barbara J. Brohl
Executive Director and State Licensing Authority
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**R 100 Series – General Applicability**

**Basis a Purpose – R 102**

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so that if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged.

**R 102 – Severability**

If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

**Basis and Purpose – R 103**

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and not intended to be a defined term, it is not capitalized.

With regard to the definition of Child-Resistant, the State Licensing Authority relied extensively upon written commentary provided by a public health agency within a Colorado hospital, which had conducted a health impact assessment of packaging regulations, looking at accidental ingestion of medical marijuana. The assessment was supported by others in the public, including industry representatives and a physician specializing in medical toxicology.

With regard to the definition of Restricted Access Area, the State Licensing Authority relied extensively upon written commentary provided by a consumer advocate.

**R 103 – Definitions**

Definitions. The following definitions of terms, in addition to those set forth in section 12-43.4-103, C.R.S., shall apply to all rules promulgated pursuant to the Retail Code, unless the context requires otherwise:

“Advertising” means the act of providing consideration for the publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any Person to patronize a particular a Retail Marijuana Establishment, or to purchase particular Retail Marijuana or a Retail Marijuana Product. “Advertising” includes marketing, but does not include packaging and labeling. “Advertising” proposes a commercial transaction or otherwise constitutes commercial speech.

“Alarm Installation Company” means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.
“Applicant” means a Person that has submitted an application pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

“Batch Number” means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

“Cannabinoid” means any of the chemical compounds that are the active principles of marijuana.

“Child-Resistant” means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995) and ASTM classification standard D3475-12, http://www.astm.org/Standards/D3475.htm. Note that this rule does not include any later amendments or editions to the Code of Federal Regulations or the ASTM classification standards. The Division has maintained a copy of the applicable federal regulation and ASTM classification standard, which are available to the public.

b. Opaque so that the product cannot be seen from outside the packaging;

c. Closable for any product intended for more than a single use or containing multiple servings, and

d. Labeled properly as required by the R 1000 Series.

“Container” means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a consumer and that has been labeled according to the requirements set forth in Rules R 1002 et. seq.

“Denied Applicant” means any Person whose application for licensure pursuant to the Retail Code has been denied.

“Department” means the Colorado Department of Revenue.

“Director” means the Director of the Marijuana Enforcement Division.

“Division” means the Marijuana Enforcement Division.

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

“Executive Director” means the Executive Director of the Department of Revenue.

“Exit Package” means a sealed Container or package provided at the retail point of sale, in which any Retail Marijuana or Retail Marijuana Product already within a Container are placed.

“Final Agency Order” means an Order of the State Licensing Authority issued in accordance with the Retail Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency
Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

“Flower” means the gametophytic or reproductive state of *Cannabis* in which the plant in a light cycle intended to produce flowers, trichomes, and cannabinoids characteristic of marijuana.

“Good Cause” for purposes of denial of an initial, renewal, or reinstatement of a license application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to it, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee’s Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

“Good Moral Character” means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

“Harvest Batch” means a specifically identified quantity of processed Retail Marijuana that is uniform in strain, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested at the same time.

“Identity Statement” means the name of the business as it is commonly known and used in any Advertising.

“Immature plant” means a nonflowering Retail Marijuana or Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

“Initial Decision” means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

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

“Licensee” means any Person licensed pursuant to the Retail Code or, in the case of an Occupational License Licensee, any individual licensed pursuant to the Retail Code or Medical Code.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.
“Limit of Detection” or “LOD” means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

“Limit of Quantitation” or “LOQ” means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

“MITS” means Marijuana Inventory Tracking Solution.

“MITS Trained Administrator” means an Owner or an occupationally licensed employee of a Retail Marijuana Establishment who has attended and successfully completed MITS training and who has completed any additional training required by the Division.

“MITS User” means an Owner or occupationally licensed Retail Marijuana Establishment employee who is granted MITS User account access for the purposes of conducting inventory tracking functions in the MITS system and who has been successfully trained by a MITS Trained Administrator in the proper and lawful use of MITS.

“Medical Code” means the Colorado Medical Marijuana Code found at sections 12-43.3-101 et. seq., C.R.S.

“Medical Marijuana” means “Medical Marijuana” means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

“Medical Marijuana Business” means a Medical Marijuana Center, a Medical Marijuana-Infused Product Manufacturing Business, or an Optional Premises Cultivation Operation.

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

“Medical Marijuana-Infused Product” means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

“Medical Marijuana-Infused Products Manufacturing Business” means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

“Monitoring” means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Retail Marijuana Establishment Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

“Monitoring Company” means a person in the business of providing security system Monitoring services for the Licensed Premises of a Retail Marijuana Establishment.

“Notice of Denial” means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.
“Occupational License” means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401 or 12-43.4-401, C.R.S.

"Optional Premises Cultivation Operation" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee’s license.

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

“Person” means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that “Person” does not include any governmental organization.

“Production Batch” means a group of Retail Marijuana Product created from a production run of marijuana product.

“Proficiency Testing Samples” means performing the same analyses on the same samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of samples analyzed are appropriate to test and display similarities and differences in results.

“Propagation” means the reproduction of Retail Marijuana plants by seeds, cuttings or grafting.

“RFID” means Radio Frequency Identification.

“Respondent” means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

“Restricted Access Area” means a designated and secure area within a Licensed Premises in a Retail Marijuana Store where Retail Marijuana and Retail Marijuana Product are sold, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Code" means the Colorado Retail Marijuana Code found at sections 12-43.4-101 et. seq., C.R.S.

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

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.
"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

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

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

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

"Retail Marijuana Testing Facility" means an entity licensed and certified to analyze and certify the safety and potency of Retail Marijuana.

"Sample" means any Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product provided for testing or research purposes to a Retail Marijuana Testing Facility by a Retail Marijuana Establishment or Medical Marijuana Business.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shipping Container" means any container or wrapping used solely for the transport of Retail Marijuana or Retail Marijuana Product in bulk, or in a quantity for other Retail Marijuana Establishments.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

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

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division’s website indicating Retail Marijuana or a Retail Marijuana Product is within a Container.
“Unrecognizable” means marijuana or Cannabis plant material rendered indistinguishable from any other plant material.

“Vegetation” means the sporophytic state of the Cannabis plant that is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Basis and Purpose – R 104

The statutory authority for this rule exists in subsections 12-43.4-(3)(a)(IX) and 24-4-105(11), and section 12-43.4-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may petition the Division to get a formal position by the State Licensing Authority on issues that will likely be applicable to other Licensees. By utilizing this system, Licensees can ensure that their due process rights are protected because the Administrative Procedure Act will apply. This system works for other divisions within the Department of Revenue and helps the regulated community get clarity on yet-unknown issues.

R 104 – Declaratory Orders Concerning the Retail Code

A. Who May Petition for Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Retail Code, or any regulation of the State Licensing Authority. The Division shall respond with a written statement of position within 30 days of receiving a proper petition.

B. Petition for Declaratory Order. Any person who has properly petitioned the Division for a statement of position, and who is dissatisfied with the statement of position or who has not received a response within 30 days, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. A petition shall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Retail Code, and if so, the type of license and address of the Licensed Premises.

3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant local jurisdiction.

4. The statute, rule, or order to which the petition relates.

5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

7. A concise statement of the declaratory order sought by the petitioner.
C. **State Licensing Authority Retains Discretion Whether to Entertain Petition.** The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly petition the Division for a statement of position, or if a statement of position was issued, the petition for declaratory order was filed with the State Licensing Authority more than 30 days after statement of position was issued.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.

3. The petition involves a subject, question or issue which is currently involved in a pending hearing before the state or any local licensing authority, or which is involved in an on-going investigation conducted by the Division, or which is involved in a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.

D. **If State Licensing Authority Entertains Petition.** If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall notify the petitioner within 30 days, and the following procedures shall apply:

1. The State Licensing Authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, a hearing shall be conducted in accordance with Rules R 1304 – Administrative Hearings, R 1305 – Administrative Subpoenas, and R 1306 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this rule shall be the petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the State Licensing Authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

4. The declaratory order shall constitute a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

E. **Mailing Requirements.** A copy of any petition for a statement of position to the Division and of any petition for a declaratory order to the State Licensing Authority shall be mailed, on the same day that the petition is
filed with the Division or State Licensing Authority, to the relevant local jurisdiction. Any petition filed with the Division or authority shall contain a certification that the mailing requirements of this paragraph have been met.

F. Public Inspection. Files of all petitions, requests, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

G. Posted on Website. The Division shall post a copy of all statements of positions or declaratory orders constituting Final Agency Orders on the Division’s web site.

Basis and Purpose – R 105

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to clarify that any reference to days means calendar days.

R 105 – Computation of Time

The word “days” as used in these rules means calendar days.
R 200 Series – Licensing

Basis and Purpose – R 201

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 12-43.4-309(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only materially complete applications for licenses, accompanied by all required fees, will be accepted and processed by the Division. The State Licensing Authority understands there may be instances where an application is materially complete and accepted, but further information is required before it can be fully processed. In such instances, the applicant must provide the additional requested information within the time frame given by the Division in order for the application to be acted on in a timely manner.

R 201 – Complete Applications Required: Retail Marijuana Establishments

A. General Requirements

1. All applications for licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, new business premises, individuals as Owners, transfers of ownership, change of locations, premises modifications, and changes in trade name.

2. A license issued by a Division to a Retail Marijuana Establishment constitutes a revocable privilege. The burden of proving an Applicant’s qualifications for licensure rests at all times with the Applicant.

3. If required by the forms supplied by the Division, each application shall identify the relevant local jurisdiction.

4. Applicants must submit a complete application to the Division before it will be accepted or considered.

   a. All applications must be complete in every material detail.

   b. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

   c. All applications must be accompanied by a full remittance for the whole amount of the application and license fees.

5. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Upon request by the Division, an Applicant shall provide any additional information required to process and fully investigate the application. The additional information must be provided to the Division no later than seven days after of the request is made unless otherwise specified by the Division.
2. An Applicant’s failure to provide the requested information by the Division deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional or purposeful misstatements, omissions, misrepresentations or untruths in the application or in connection with the Applicant’s background investigation. This type of conduct may be considered as the basis for additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

E. Other Considerations Regarding Medical Marijuana Business Applications. The Applicant, if not an individual, must be comprised of individuals:

1. Whose criminal history background checks establish they are all of Good Moral Character; and

2. Who have met all other licensing requirements.

Basis and Purpose – R 202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), and 12-43.4-304(1), and sections 24-4-104 and 24-76.5-101 et. seq., C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish basic requirements for all Division applications for new Retail Marijuana Establishment licenses. It helps the regulated community understand the procedural licensing requirements.

R 202 – Process for Issuing a New License: Retail Marijuana Establishments

A. General Requirements

1. All applications for licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application for a new license shall identify the relevant local jurisdiction.

2. All applications for new Retail Marijuana Establishments must include application and licensing fees for each premises. See Rules R 207 - Schedule of Application Fees: Retail Marijuana Establishments and R 208 - Schedule of Business License Fees: Retail Marijuana Establishments.

3. Each Applicant for a new license shall provide, at the time of application, the following information:

   a. Suitable evidence of proof of lawful presence, residence, if applicable, and Good Moral Character as required by the current forms prescribed by the Division;
b. All requested information concerning financial and management associations and interests of other Persons in the business;

i. If the Applicant for any license pursuant to the Retail Code is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and Owner’s background forms of all of its principal officers, directors, and Owners; a copy of its articles of incorporation or articles of organization; and evidence of authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses and Owner’s background applications of all Persons owning any of the outstanding or issued capital stock, or of any Persons holding a membership interest.

ii. If the Applicant for any license pursuant to this section is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and Owner’s background forms of all of its partners and a copy of its partnership agreement.

c. Department of Revenue tax payment information;

d. Proof of good and sufficient surety bond, if applicable;

e. Accurate floor plans for the premises to be licensed; and

f. The deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.

Nothing in this section is intended to limit the Division’s ability to request additional information it deems necessary or relevant to determining an Applicant’s suitability for licensure.

4. Failure to provide such additional information by the requested deadline may result in denial of the application.

5. All applications to reinstate a license will be deemed applications for new licenses. This includes, but is not limited to, licenses that have been expired for more than 90 days, licenses that have been voluntarily surrendered, and licenses that have been revoked.

B. Other Factors

1. The Division will either approve or deny a complete application not less than 45 days and not more than 90 days of its receipt.

2. The Division will send applications for a new Retail Marijuana Establishment and half the application fee to the relevant local jurisdiction within seven days of receiving the application.

3. If the Division grants a license before the relevant local jurisdiction approves the application or grants a local license, the license will be conditioned upon local approval. Such a condition will not be viewed as a denial pursuant to the Administrative Procedure Act. If the local jurisdiction fails to approve or denies the application, the state license will be revoked.
4. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing through the relevant local jurisdiction. Should the Applicant fail to obtain local jurisdiction approval or licensing within the specified period, the state license shall expire and may not be renewed.

5. An Applicant is prohibited from operating a Retail Marijuana Establishment prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the relevant local jurisdiction.

**Basis and Purpose – R 203**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(I), and section 12-43.4-310, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how licenses can be renewed.

**R 203 – Process for Renewing a License: Retail Marijuana Establishments**

**A. General Process for License Renewal**

1. The Division will send a Notice for License Renewal 90 days prior to the expiration of an existing license by first class mail to the Licensee’s mailing address of record.

2. A Licensee may apply for the renewal of an existing license no less than 30 days prior to the license’s expiration date. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Division accepts the application, then it may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.

3. An application for renewal will only be accepted if it is accompanied by:
   
   a. The requisite licensing fees. See Rule R 209 - Schedule of Business License Renewal Fees: Retail Marijuana Establishments; and

   b. A copy of the relevant local jurisdiction’s approval. If the relevant local jurisdiction does not approve such activity, the Licensee must submit a copy of the local jurisdiction’s written acknowledgment of receiving the approval with the application for renewal.

4. The Division will send a copy of the Licensee’s application for renewal of an existing license to the relevant local jurisdiction within seven days of receiving the application for renewal.

**B. Failure to Receive a Notice for License Renewal.** Failure to receive a Notice for License Renewal does not relieve a Licensee of the obligation to renew all licenses as required.

**C. If License Not Renewed Before Expiration.** A license is immediately invalid upon expiration if the Licensee has not filed a late renewal application and remitted all of the required fees.
1. In the event the license is not renewed prior to expiration, a Retail Marijuana Establishment may not operate.

2. If a former Licensee files a late application and the requisite fees with the Division within 90 days of expiration of the license, the Division may administratively continue the license from the date the late application is received until it can complete its renewal application process and investigate the extent to which the Licensee operated with an expired license.

3. If a former Licensee files a renewal application after 90 days from date of expiration, the application will be treated as a new license application.

Basis and Purpose – R 204

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-312(1), C.R.S. The purpose of this rule is to clarify what elements the State Licensing Authority generally considers when determining who has a beneficial interest in a license to such an extent that one is considered an Owner. The Division will review whatever relevant information exists to determine who ultimately owns or controls, i.e., is in charge of a business. This rule sets forth the general elements that will help the Division make the proper determination.

R 204 – Factors Considered When Evaluating Ownership of a License: Retail Marijuana Establishments

A. Licenses Held By Owners. Each Retail Marijuana Establishment License must be held by the Owner or Owners of the licensed establishment. The Division may consider the following non-exhaustive list of elements when determining who is an Owner:

1. Who bears risk of loss and opportunity for profit;

2. Who is entitled to possession of the Licensed Premise or premises to be licensed;

3. Who has final decision making authority over the operation of the licensed Retail Marijuana Establishment;

4. Who guarantees the Retail Marijuana Establishment’s debts or production levels;

5. Who is a beneficiary of the Retail Marijuana Establishment’s insurance policies;

6. Who acknowledges liability for the Retail Marijuana Establishment’s federal, state, or local taxes; or

7. Who is an officer or director of a Retail Marijuana Establishment.

B. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises may be considered an Owner.
C. **Role of Managers.** Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Retail Marijuana Establishment license may not be held in the name of the manager.

D. **Entities.** A partnership interest, limited or general, a joint venture interest, a licensing agreement, ownership of a share or shares in a corporation or a limited liability company which is licensed, or having a secured interest in furniture, fixtures used directly in the manufacture or cultivation of Retail Marijuana or Retail Marijuana Product, equipment or inventory constitutes ownership and a direct financial interest. Secured notes or loans shall constitute an indirect financial interest. It shall be unlawful to fail to completely report all financial interests in each license issued.

**Basis and Purpose – R 205**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-304, 12-43.4-306, 12-43.4-309(2), and sections 12-43.4-308 and 24-76.5-101 et. seq., C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish protocol for ownership transfers.

**R 205 – Transfer of Ownership and Changes in Business Structure: Retail Marijuana Establishments**

**A. General Requirements**

1. All applications for transfers of ownership or changes in corporate entities by licensed Retail Marijuana Establishments authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant local jurisdiction.

2. All applications for transfers of ownership and changes in Retail Marijuana Establishments must include application fees and be complete in every material detail.

3. Each Applicant for a transfer of ownership shall provide suitable evidence of a Person’s proof of lawful presence, residence and good character and reputation that the Division may request. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, proof of good and sufficient surety bond and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the Licensed Premises. Nothing in this section is intended to limit the Division’s ability to request additional information it deems necessary relevant to determining an Applicant’s suitability for licensure.

4. Failure to provide such additional evidence by the deadline specified by the Division may result in denial of the application.

5. The Division will send applications for a transfer of ownership to the relevant local jurisdiction within seven days of receiving the application. See Rule R 1401 - Instructions for Local Jurisdictions and Law Enforcement Officers.

6. The Division will not approve a transfer of ownership application without first receiving written notification from the relevant local jurisdiction approving the transfer. If a local jurisdiction elects not
to approve or deny a transfer of ownership application, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. As It Relates to Corporations and Limited Liability Companies

1. If the Applicant for any license pursuant to the Retail Code is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and Owner’s background forms of all of its principal officers, directors, and Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses of all Persons owning any of the outstanding or issued capital stock, or of any Persons holding a membership interest.

2. Any proposed transfer of capital stock or any change in principal officers or directors of a corporation shall be reported and approved by the Division and the relevant local jurisdiction prior to such transfer or change. If a local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

3. Any proposed transfer of membership interest or any change in members of any limited liability company holding a license shall be reported and approved by the Division and the relevant local jurisdiction prior to such transfer or change. If a local jurisdiction elects not to approve or deny this type of activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

C. As It Relates to Partnerships

1. If the Applicant for any license pursuant to the Retail Code is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and Owner’s background forms of all of its partners and a copy of its partnership agreement.

2. Any proposed transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported and approved by the Division and relevant local jurisdiction prior to such transfer or change. If a local jurisdiction elects not to approve or deny this type of activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., et. seq., shall not be required to file a transfer of ownership application pursuant to section 12-43.4-308, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. The Licensee shall submit to the Division the names and mailing addresses of any officers, directors, general or managing partners, and all Persons having an ownership interest.

E. Approval Required. It may be considered a license violation affecting public safety if a Licensee engages in any transfer of ownership without prior approval from the Division and the relevant local jurisdiction.
F. Applications for Reinstatement Deemed New Applications. The Division will not accept an application for transfer of ownership if the license to be transferred is expired for more than 90 days, is voluntarily surrendered, or is revoked. See Rule R 202 - Process for Issuing a New License: Retail Marijuana Establishments.

Basis and Purpose – R 206

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), and 12-43.4-202(3)(a)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify the application process for changing location of a Licensed Premises.

R 206 – Changing Location of Licensed Premises: Retail Marijuana Establishments

A. Application Required to Change Location of Licensed Premises

1. An Owner or other authorized representative of a Retail Marijuana Establishment must make application to the Division for permission to change location of its Licensed Premise.

2. Such application shall:
   a. Be made upon current forms prescribed by the Division;
   b. Be complete in every material detail and include remittance of all applicable fees;
   c. Explain the reason for requesting such change;
   d. Be supported by evidence that the application complies with the relevant local jurisdiction requirements; and
   e. Contain a report of the relevant local jurisdiction(s) in which the Retail Marijuana Establishment is to be situated, which report shall demonstrate the approval of the local jurisdiction(s) with respect to the new location. If the relevant local jurisdiction elects not to approve or deny a change of location of Licensed Premises application, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. Permit Required Before Changing Location

1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.

2. The permit shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate a Retail Marijuana Establishment at the former location. At no time may a Retail Marijuana Establishment operate or exercise any of the privileges granted pursuant to the license in both locations. For good cause shown, the 120 day deadline may be extended for an additional 90 days.
3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.

C. General Requirements

1. An application for change of location to a different local jurisdiction shall follow the same procedures as an application for a new Retail Marijuana Establishment license, except that licensing fees will not be assessed until the license is renewed. See Rule R 202 - Process for Issuing a New License: Retail Marijuana Establishments.

2. An Applicant for change of location within the same local jurisdiction shall file a change of location application with the Division and pay the requisite change of location fee. See Rule R 207 - Schedule of Application Fees: Retail Marijuana Establishments.

Basis and Purpose – R 207

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-104(1)(a)(I), and 12-43.4-202(3)(a)(II), 12-43.4-501, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to clarify the schedules of application fees for new retail business Licensees.

R 207 – Schedule of Application Fees: Retail Marijuana Establishments

A. Application Fee for Existing Medical Marijuana Licensees in Good Standing and Qualified Applications

1. A Person licensed pursuant to the Medical Code, section 12-43.3-401, C.R.S., shall pay a $500 application fee, for each application submitted, to operate a Retail Marijuana Establishment if the following are met:

   a. The Licensee is operating; and

   b. The Licensee's license is in good standing. A license in good standing has complied consistently with Article XVIII, Section 14 of the Colorado Constitution, the provisions of the Medical Code, and regulations adopted thereto.

2. A Person who had a pending application with the State Licensing Authority for a license pursuant to the Medical Code prior to December 10, 2012, shall pay a $500 application fee to operate a Retail Marijuana Establishment if the following are met:

   a. The Applicant is operating in compliance with the Medical Code and regulations adopted thereto;

   b. The application has not been denied; and

   c. The Person paid all applicable application and licensing fees prior to December 10, 2012.
B. **Application Fee for New Applicants.** Applicants that do not meet the criteria in Part A. of this rule are required to pay a $5000 application fee that must be submitted with each application before it will be considered.

C. **Transfer of Ownership Fee (New Owner Applicants).** The transfer of ownership fee is $2500 if any new Owner is applying plus any additional applicable fees.

D. **Transfer of Ownership Fee (Reallocation of Ownership Among Current Owners).** The transfer of ownership fee is $1000 per application.

E. **Change of Location of License Premises Fee**

   1. If an Applicant is changing the location of a Licensed Premises within the same local jurisdiction, the Applicant must pay a $1000 fee.

   2. An application to change the location of a Licensed Premises to a different local jurisdiction will be treated as a new application. See Rule R 202 – Process for Issuing a New Application: Retail Marijuana Establishments. An Application to change the location of a Licensed Premises to a different local jurisdiction must be accompanied by a $5000 fee, and the Division will forward one half of the fee and a copy of the application to the relevant local jurisdiction within seven days. No new license fees will be assessed unless otherwise required for a License to be renewed.

F. **When Application Fees Are Due.** All application fees are due at the time an application is submitted. An Applicant must follow Division policies regarding payment to local jurisdictions.

**Basis and Purpose – R 208**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), 12-43.4-304(1), and 12-43.4-305, and section 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

**R 208 – Schedule of Business License Fees: Retail Marijuana Establishments**

A. **License Fees.** The State Licensing Authority intends to revisit the fee structure prior to July 1, 2014. Initially, Licensee fees will be set at:

   1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License – $3,750.00
   2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License – $8,750.00
   3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License – $14,000.00
   4. Retail Marijuana Cultivation Facility License – $2,750.00
   5. Retail Marijuana Products Manufacturing License – $2,750.00
6. Retail Marijuana Testing Facility License – $2,750.00

B. When License Fees Are Due. All license fees are due at the time an application is submitted.

C. If Application is Denied. If an application is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – R 209

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), 12-43.4-304(1), and 12-43.4-305, and section 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments

A. License Renewal Fees. The State Licensing Authority intends to revisit the fee structure prior to July 1, 2014. Initially, the License fees will be set at:

1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License – $3,750.00
2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License – $8,750.00
3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License – $14,000.00
4. Retail Marijuana Cultivation Facility License – $2,750.00
5. Retail Marijuana Products Manufacturing License – $2,750.00
6. Retail Marijuana Testing Facility License – $2,750.00

B. When License Renewal Fees Are Due. License renewal fees are due at the time the renewal application is submitted.

C. If Renewal Application is Denied. If an application for renewal is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – R 210

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), and 12-43.4-304(1), and section 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection
16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 210 – Schedule of Administrative Service Fees: All Licensees

A. Administrative Service Fees. The State Licensing Authority intends to revisit this fee structure prior to July 1, 2014. Initially, administrative service fees will be set at:

1. Entity Conversion - $1000
2. Change of Trade Name - $50
3. Modification of License Premises - $150
4. Duplicate Business License or Certificate of Application - $50
5. Duplicate Occupational License - $10

B. When Administrative Service Fees Are Due. All administrative service fees are due at the time each applicable request is made.

Basis and Purpose - R 211

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.3-202(3)(a), and 12-43.4-202(4)(b)(I)(a), section 12-43.4-104, and 12-43.4-501, C.R.S. The purpose of this rule is to clarify that existing Medical Marijuana Businesses may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one additional license to operate a Retail Marijuana Establishment. It is important to note that the State Licensing Authority considers each license issued as separate and distinct. Each license, whether it is in the same location or not, is fully responsible to maintain compliance with all statutes and rules promulgated regardless of whether or not they are located in a shared address.

A Medical Marijuana Business may only obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Product are tracked in MITS and as a condition of licensure, a Medical Marijuana Business must declare in MITS all Medical Marijuana and Medical Marijuana Infused-Product that are converted for sale as Retail Marijuana or Retail Marijuana Product prior to initiating or allowing any sales. This declaration may be made only once, in part, due to the excise tax issues that may be implicated if a Licensee makes multiple conversions from Medical Marijuana or Medical Marijuana-Infused Product to Retail Marijuana or Retail Marijuana Product.

The State Licensing Authority received several comments from stakeholders who requested lower fees for Medical Marijuana Businesses that were either converting a Medical Marijuana Business license to a Retail Marijuana Establishment license or obtaining an additional Retail Marijuana Establishment license while retaining the existing Medical Marijuana Business license. The adopted permanent regulations reflect changes to address this concern. Under the rules as adopted Medical Marijuana Businesses that apply to convert to a Retail Marijuana Establishment license will be required to pay an application fee, but no license fees will be charged until such time as the renewal fees would have been due under the Medical Marijuana Business license term. The Retail Marijuana Establishment
license, if approved, would assume the balance of the license term from the Medical Marijuana Business license and have the same expiration date.

R 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment

A. Medical Marijuana Business Applying for a Retail Marijuana Establishment License. A Medical Marijuana Business in good standing or who had a pending application as of December 10, 2012 that has not yet been denied, and who has paid all applicable fees may apply for a Retail Marijuana Establishment license in accordance with the Retail Code and these rules on or after October 1, 2013. A Medical Marijuana Business meeting these conditions may apply to convert a Medical Marijuana Business license to a Retail Marijuana Establishment license or may apply for a single Retail Marijuana Establishment of the requisite class of license in the Medical Marijuana Code for each Medical Marijuana Business License not converted.

B. Retail Marijuana Establishment Expiration Date

1. A Medical Marijuana Business converting its license to a Retail Marijuana Establishment license shall not be required to pay a license fee at the time of application for conversion.

2. If a Medical Marijuana Business licensee is scheduled to renew its license during the processing of its conversion to a Retail Marijuana Establishment license, the Medical Marijuana Business must complete all renewal applications and pay the requisite renewal licensing fees.

3. A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Business license will assume the balance of licensing term previously held by the surrendered Medical Marijuana Business license.

C. Retail Marijuana Establishment Licenses Conditioned

1. It shall be unlawful for a Retail Marijuana Establishment to operate without being issued a Retail Marijuana Establishment license by the State Licensing Authority and receiving all relevant local jurisdiction approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee’s receipt of all required local jurisdiction approvals and licensing, if required.

2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business’ declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Product it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Product. A Licensee that converts to a Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment until such time as all such Medical Marijuana and Medical Marijuana-Infused Product are fully transferred and declared in the MITS system as Retail Marijuana and Retail Marijuana Product. See also, Rule R 309 – Marijuana Inventory Tracking Solution (MITS).

D. One-Time Transfer. Once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana-Infused Product as Retail Marijuana or Retail Marijuana Product in MITS and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana-Infused Product can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.
Basis and Purpose – R 230

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 12-43.4-309(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only materially complete applications for licenses, accompanied with all required fees, will be accepted and processed by the Division. The State Licensing Authority understands there may be instances where an application is materially complete, but further information is required before it can be fully processed. In such instances, the applicant must provide the additional requested information within the time frame given by the Division in order for the application to be acted on in a timely manner.

R 230 – Complete Applications Required: Individuals

A. General Requirements

1. All applications for licenses authorized pursuant to subsection 12-43.4-401(1)(e), C.R.S., shall be made upon current forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, individuals as Owners and transfers of ownership.

2. A license issued by the Division to Owners and Occupational License Licensees constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. Applicants must submit a complete current application to the Division before it will be accepted or considered.
   a. All applications must be complete in every material detail.
   b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.
   c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.

4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.

2. An Applicant’s failure to provide the requested evidence or information by the Division deadline may be grounds for denial. The additional information must be provided to the Division no later than seven days of the request unless otherwise specified by the Division. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.
C. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions and any state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

Basis and Purpose – R 231

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-305, and 12-43.4-306 and section 24-76.5-101 et. seq., C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the qualifications for licensure, including, but not limited to, the requirement for a fingerprint-based criminal history record check for all Owners, officers managers, contractors, employees, and other support staff of licensed entities.

R 231 – Qualifications for Licensure: Individuals

A. General Requirements

1. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant’s background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

2. The Division may deny the application of an Applicant who fails to provide the requested evidence or information by the Division deadline.

B. Other Licensing Requirements

1. Fingerprints Required

   a. All Applicants for initial licensure shall be fingerprinted for a fingerprint-based criminal history record check.

   b. A renewal Applicant shall be fingerprinted at the Director’s discretion.

   c. An Applicant shall also be fingerprinted if the Director has required the Applicant to submit a new application. The Director may require a new application for the following non-exhaustive list of reasons:

      i. An Applicant is re-applying after more than one year since the expiration of his or her most recent license;

      ii. If an Applicant’s previous license was denied or revoked by the State Licensing Authority; or
iii. When the Division needs additional information in order to proceed with a background investigation.

2. **Other Documents May Be Required.** Any Applicant may be required to establish his or her identity and age by any document required for a determination of lawful presence.

3. **Maintaining Ongoing Suitability For Licensing: Duty to Report Offenses.** An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person’s arrest or felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. Licensees shall cooperate in any investigation conducted by the Division. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the Division lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the Division may require the Applicant to provide proof from a court evidencing the sealing of the case.

4. **Application Forms Accessible to Law Enforcement and Licensing Authorities.** All application forms supplied by the Division and filed by an Applicant for license shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.

C. **Owners.** An Owner Applicant must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;

2. The Applicant’s criminal history must indicate that he or she is of Good Moral Character;

3. The Applicant is not employing, or financed in whole or in part, by any other Person whose criminal history indicates that he or she is not of Good Moral Character;

4. The Applicant is at least 21 years of age;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment;

6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant can prove that he or she has not 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 years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State 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 a license;

8. The Applicant can establish that he or she does not employ another person who does not have a valid Occupational License issued pursuant to either the Retail Code or the Medical Code.
9. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local jurisdiction;

10. The Applicant can establish that its premises proposed to be licensed is not currently licensed as a retail food establishment or wholesale food registrant;

11. The Applicant has been a resident of Colorado for at least two years prior to the date of the Application. See Rule R 232 – Factors Considered When Determining Residency: Individuals.

D. **Occupational Licenses.** An Occupational License Applicant must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;

2. The Applicant’s criminal history must indicate that he or she is of Good Moral Character;

3. The Applicant is at least 21 years of age;

4. The Applicant can establish that he or she is currently a resident of Colorado.

5. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

6. The Applicant can prove that he or she has not 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 years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State 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 a license;

7. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local jurisdiction;

E. **Current Medical Marijuana Occupational Licensees**

1. An individual who holds a current, valid Occupational License issued pursuant to the Medical Code may also work in a Retail Marijuana Establishment; no separate Occupational License is required.

2. An individual who holds a current, valid Occupational License issued pursuant to the Retail Code and these rules shall not work at a Medical Marijuana Business unless he or she also holds a current, valid Occupational License issued pursuant to the Medical Code.

**Basis and Purpose – R 232**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-306(1)(k), and 12-43.4-309(5), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Retail Code.
This rule applies to individual Applicants who are trying to obtain licenses issued pursuant to the Retail Code. This rule does not apply to patrons of Retail Marijuana Stores. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

A. **Primary Home Defined.** The location of an Applicant’s principal or primary home or place of abode ("primary home") may establish Colorado residency. An Applicant’s primary home is that home or place in which a person’s habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or manufactured housing. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.

B. **Reliable Indicators That an Applicant’s Primary Home is in Colorado.** The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a person’s primary home is in Colorado.

1. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;

2. Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and

3. Other types of reliable evidence.

C. **Totality of the Evidence.** The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a person’s primary home will not necessarily be determinative.

D. **Other Considerations for Residency.** The State Licensing Authority may consider the following circumstances:

1. Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their spouses;

2. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and

3. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed “full-time” if considered full-time pursuant to the rules or policy of the educational institution he or she is attending.
E. **Entering Armed Forces Does Not Terminate Residency.** An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the person entered military service and the person’s spouse are presumed to retain their status as residents of Colorado throughout the member’s active duty in the service, regardless of where stationed or for how long.

Basis and Purpose – R 233

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-401(1)(e), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a licensed Retail Marijuana Establishment. The rule also sets forth the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

**R 233 – Medical Code or Retail Code Occupational Licenses Required**

A. **Medical Code or Retail Code Occupational Licenses and Identification Badges**

1. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports or delivers Retail Marijuana or Retail Marijuana Product as permitted by privileges granted under a Retail Marijuana Establishment License must have a valid Occupational License.

2. Any person who has the authority to access or input data into MITS or a Retail Marijuana Establishment point of sale system must have a valid Occupational License.

3. Any person within a Restricted Access Area or Limited Access Area that does not have a valid Occupational License shall be considered a visitor and must be escorted at all times by a person who holds a valid Owner or Occupational License. Failure by a Retail Marijuana Establishment to continuously escort a person who does not have a valid Occupational License within a Limited Access Area may be considered a license violation affecting the public safety. See Rule R 1307 – Penalties.

B. **Occupational Licensees Commencing Employment.** Any person required to be licensed pursuant to this rule shall obtain all Division approvals and obtain a Division-issued identification badge before commencing activities permitted by the Retail Code or Medical Code Occupational License. See also Rule R 231 – Qualifications for Licensure: Individuals.

C. **Identification Badges Are Property of State Licensing Authority.** All identification badges shall remain the property of the State Licensing Authority, and all identification badges shall be returned to the Division upon demand of the State Licensing Authority or the Division. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.
Basis and Purpose – R 250

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 24-4-105(2), and 12-43.4-601(2), C.R.S. The purpose of this rule is to clarify that a Licensee must keep its mailing address current with the Division.

R 250 – Licensee Required to Keep Mailing Address Current with the Division: All Licensees

A. Timing of Notification. A Licensee shall inform the Division in writing of any change to its mailing address within 30 days of the change. The Division will not change a Licensee’s information without explicit written notification provided by the Licensee or its authorized agent.

B. Division Communications. Division communications are sent to the last mailing address furnished by an Applicant or Licensee to the Division.

C. Failure to Change Address Does Not Relieve Licensee’s or Applicant’s Obligation. Failure to notify the Division of a change of mailing address does not relieve a Licensee or Applicant of the obligation to respond to a Division communication.

D. Disciplinary Communications. The State Licensing Authority will send any disciplinary or sanction communication, as well as any notice of hearing, to the mailing address contained in the license and, if different, to the last mailing address furnished to the Division by the Licensee.

Basis and Purpose – R 251

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-202(3)(a)(XVI), and 12-43.4-305, and sections 24-4-104 and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(I). The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

R 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.

2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of suitability and the Applicant does not furnish such evidence by the date requested, the Applicant’s application may be denied.

B. Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the Division during the entire Application process.
2. If an Applicant provides inaccurate information to the Division, the Applicant’s application may be denied.

C. **Grounds for Denial**

1. The State Licensing Authority will deny an application from an Applicant that forms a business including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of transporting, cultivating, processing, transferring, or distributing Retail Marijuana or Retail Marijuana Product without receiving prior approval from all relevant local jurisdictions.

2. The State Licensing Authority will deny an application for Good Cause, as defined in subsection 12-43.4-305(1), C.R.S., of the Retail Code.

3. The State Licensing Authority will deny an Applicant’s application that is statutorily disqualified from holding a license.

D. **Voluntary Withdrawal of Application**

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application for licensing in lieu of a denial proceeding.

2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. In such instances, an Applicant waives his or her right to a hearing in the matter once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant and relevant local jurisdiction of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. **An Applicant May Appeal a Denial**

1. An Applicant may appeal an application denial pursuant to the Administrative Procedure Act.

2. See also Rules R 1304 – Administrative Hearings, R 1305 – Administrative Subpoenas, and R 1306 – Administrative Hearing Appeals.
Basis and Purpose – R 252

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-309(5), C.R.S. The purpose of this rule is to clarify that Retail Marijuana Establishment licenses are valid for one year unless suspended, revoked, or otherwise disciplined.

R 252 – License Must Be Renewed Each Year: All Licensees

A. All Retail Code Licenses. All Licenses issued pursuant to the Retail Code and these rules are valid for one year, except those fully converted from a Medical Marijuana Business license.

B. License May Be Valid for Less Than One Year. A License may be valid for less than one year if revoked, suspended, or otherwise disciplined.
R 300 Series – The Licensed Premises

Basis and Purpose – R 301

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b) and section 12-43.4-105, C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority.

R 301 – Limited Access Areas

A. Proper Display of License Badge. All persons in a Limited Access Area as provided for in section 12-43.4-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible.

B. Visitors in Limited Access Areas

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Retail Marijuana Establishment’s licensed personnel at all times. No more than five visitors may be escorted by a single employee.

3. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division or relevant local jurisdiction.

4. All visitors must provide proof of age and must be at least 21 years of age. See Rule R 404 – Acceptable Forms of Identification.

5. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. See Rule R 404 – Acceptable Forms of Identification.

6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors.”

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division or relevant local jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, and retail sales areas. See Rule R 901 – Business Records Required.
E. **Modification of Limited Access Area.** A Licensee’s proposed modification of designated Limited Access Areas must be approved by the Division and, if required, the relevant local jurisdiction prior to any modifications being made. See Rule R 303 – Changing, Altering, or Modifying Licensed Premises.

F. **Law Enforcement Personnel Authorized.** Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant local jurisdiction or state or local law enforcement, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

**Basis and Purpose – R 302**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-307(1)(b), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises.

**R 302 – Possession of Licensed Premises**

A. **Evidence of Lawful Possession.** Persons licensed pursuant to sections 12-43.4-402, 12-43.4-403, 12-43.4-404, or 12-43.4-405, C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to licensing authorities.

B. **Relocation Prohibited.** The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. See Rule R 303 - Changing, Altering, or Modifying Licensed Premises.

C. **Subletting Not Authorized.** Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

**Basis and Purpose – R 303**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-304, and 12-43.4-309(2), C.R.S. The purpose of this rule is to establish guidelines for changing, altering or modifying the Licensed Premises.
A. Application Required to Change, Alter, or Modify Licensed Premises. After obtaining a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that materially or substantially alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the Division’s prior written approval and, written approval or written acknowledgement from the relevant local jurisdiction. The Licensee whose Licensed Premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the Division.

B. What Constitutes a Material Change. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, or sale of Retail Marijuana or Retail Marijuana Product within the Licensed Premises;

3. Within a Retail Marijuana Store, the permanent addition of a separate sales counter that creates an additional point-of-sale location, and the permanent addition of a display case, all of which would require the installation of additional video surveillance cameras. See Rule R 306 – Video Surveillance.

4. The installation or replacement of electric fixtures or equipment for purposes of increasing production, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities; or

5. The addition or deletion of a Retail Marijuana Cultivation Facility license that will be, or has been, combined with other commonly owned cultivation licenses in a common area for the purpose of growing and cultivating Retail Marijuana.

C. Attachments to Application. The Division and relevant local jurisdiction may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Retail Marijuana Establishment regulation.
Basis and Purpose – R 304

The statutory authority for this rule is found at subsections 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Licensee may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a medical marijuana operation from Retail Marijuana Establishment operation.

R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

1. A Medical Marijuana Center that prohibits patients under the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate a dual retail business operation on the same Licensed Premises if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

2. A Medical Marijuana Center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. Even when the two are commonly owned, the two shall maintain distinctly separate 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.

3. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises in order to operate a dual cultivation business operation if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

4. A Medical Marijuana-Infused Products Manufacturing Business Licensee may also apply to also hold a Retail Marijuana Products Manufacturing Facility License and operate a dual manufacturing business on the same Licensed Premises, if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. A Licensee that operates an Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record-keeping for the business operations and labeling of product must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of the Medical Marijuana Business from the Retail Marijuana Establishment.

2. Manufacturing Operations. A Licensee that operates a Medical Marijuana-Infused Products Manufacturing Business and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record-keeping for the business operations and labeling of products must enable the Division and Local Jurisdictions/Local Licensing Authorities to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Product from Retail Marijuana Product.
3. **Raw Ingredients May Be Shared.** Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.

4. **Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years.** Persons operating a Medical Marijuana Center that prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances, and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana and Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sale floor. Record-keeping for the business operations of both must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Products from Retail Marijuana and Retail Marijuana Product. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores may be considered a license violation affecting public safety.

5. **Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years.** A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its Licensed Premises.

6. **Clear Separation of Inventory.** A Licensee that operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for Medical Marijuana and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the product can be reconciled to a particular Medical Marijuana Business or a Retail Marijuana Establishment.

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**Basis and Purpose – R 305**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(V), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Product contained therein. This rule also establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security.

**R 305 – Security Alarm Systems and Lock Standards**

A. **Security Alarm Systems – Minimum Requirements.** The following Security Alarm Systems and lock standards apply to all Retail Marijuana Establishments.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.
2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. See Rule R 901 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant local jurisdiction or state or local law enforcement agency, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor Retail Marijuana Cultivation Facility, or greenhouse cultivation, is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this rule. An outdoor or greenhouse Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. This shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Retail Marijuana Cultivation Facility located in an indoor Licensed Premises so it can be fully secured and alarmed.

B. Lock Standards – Minimum Requirement

1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door locks.

2. Any outdoor Retail Marijuana Cultivation Facility, or greenhouse cultivation, must meet all of the requirements for the lock standards described in this rule.

Basis and Purpose – R 306

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(d), and 12-43.4-202(3)(a)(V), and section 12-43.4-701, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Product contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security.

R 306 - Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Retail Marijuana Establishments.

1. Prior to exercising the privileges of a Retail Marijuana Establishment, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this rule.
2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. Video surveillance records and recordings must be made available upon request to the Division, the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage

1. Camera coverage is required for all Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Retail Marijuana or Retail Marijuana Product is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.
5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Retail Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Retail Marijuana is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

1. The surveillance room or surveillance area shall be a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division and relevant local jurisdiction, state or local law enforcement agencies for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, and service personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the Licensed Premises by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.

5. Each Retail Marijuana Licensed Premises located in a common or shared building, or commonly owned Retail Marijuana Establishments located in the same local jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Retail Marijuana Establishments located in the same local jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned retail facilities. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.
6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Establishment may have one central surveillance room located at the shared Licensed Premises. See Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee’s surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the Licensed Premises.

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov/timezone.cgi?Mountain/d/-7/java

6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.
Basis and Purpose – R 307

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XI), C.R.S. The purpose of this rule is to establish sanitary requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after its Medical Marijuana rules.

R 307 – Waste Disposal

A. All Applicable Laws Apply. Retail Marijuana and Retail Marijuana Product waste must be stored, secured, locked, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other requirements.

B. Liquid Waste. Liquid waste from Retail Marijuana Establishments shall be disposed of in compliance with the applicable Water Quality Control Division statutes and regulations.

C. Hazardous Waste. Disposal of hazardous and chemical waste must be conducted in a manner consistent with federal, state and local laws.

D. Waste Must Be Made Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

E. Methods to Make Waste Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste shall be rendered unusable and Unrecognizable through one of the following methods:

1. Grinding and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste:
   a. Paper waste;
   b. Plastic waste;
   c. Cardboard waste;
   d. Food waste;
   e. Grease or other compostable oil waste;
   f. Bokashi or other compost activators;
   g. Other wastes approved by the Division that will render the Retail Marijuana waste unusable and Unrecognizable; and
   h. Soil.

F. After Waste is Made Unusable and Unrecognizable. Licensees shall not dispose of Retail Marijuana waste in an unsecured waste receptacle not in possession and control of the Licensee. After the Retail Marijuana waste is made unusable and Unrecognizable, then the rendered waste shall be:
1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body;

2. Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment; or

3. Composted on-site at a facility owned by the generator of the waste and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) in the Department of Public Health and Environment.

G. Proper Disposal of Waste. A Licensee shall not dispose of Retail Marijuana and Retail Marijuana Product waste in an unsecured waste receptacle not in possession and control of the Licensee.

H. Inventory Tracking Requirements

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize MITS to ensure its waste materials are identified, weighed and tracked while on the Licensed Premises until disposed of.

2. All Retail Marijuana waste must be weighed before leaving any Retail Marijuana Establishment. A scale used to weigh Retail Marijuana waste prior to entry into the MITS system shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. See Rule R 309 – Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS).

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of Marijuana. See Rule R 901 – Business Records Required.

Basis and Purpose – R 308

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-301(2) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after the Colorado Department of Revenue’s liquor rules. Based upon written comments and testimony during working groups and public hearings, this rule was amended to permit the transport of Retail Marijuana and Retail Marijuana Product between the hours 12:01 am and 7:59 am, provided the delivery began prior to 12:01 am. This change was made to accommodate the impact inclement weather can have on driving conditions and other unpredictable events that could delay a delivery.

R 308 – Selling, Serving, Distributing and Transporting Retail Marijuana and Retail Marijuana Product - Hours of Operation

A. Hours of Operation. Retail Marijuana Establishments shall not sell, serve, distribute, or initiate the transport of Retail Marijuana or Retail Marijuana Product at any time other than between the hours of 8:00 am and 12:00 am, Mountain Standard Time, Monday through Sunday.
B. **Local Jurisdictions May Further Restrict Hours.** Nothing in this rule shall prohibit a local jurisdiction from further restricting hours of operation within its jurisdiction.

**Basis and Purpose – R 309**

The statutory authority for this rule is found at subsections 12-43.4-201(1), 12-43.4-202(2)(b), 12-43.4-402(1)(e), 12-43.4-402(4), 12-43.4-403(2)(d), and 12-43.4-404(1)(b), C.R.S. The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Retail Marijuana and Retail Marijuana Product from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to the customer or destroyed.

MITS is a web-based tool coupled with RFID technology that allows both the MITS user and the State Licensing Authority the ability to identify and account for all Retail Marijuana or Retail Marijuana Product. Through the use of RFID technology, a Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Retail Marijuana through all phases of production and final sale to a consumer. This will allow the State Licensing Authority and the MITS user the ability to monitor and track Retail Marijuana and Retail Marijuana Product inventory. MITS will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Retail Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold and disposed of in the Retail Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate MITS to promote an effective means for this industry to account for and monitor its Retail Marijuana inventory.

**R 309 – Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS)**

A. **MITS Required.** A Retail Marijuana Establishment is required to use MITS as the primary inventory tracking system of record. A Retail Marijuana Establishment must have a MITS account activated and functional prior to operating or exercising any privileges of a license. Medical Marijuana Businesses converting to or adding a Retail Marijuana Establishment must follow the inventory transfer guidelines detailed in Rule R 309(C) below.

B. **MITS Access - MITS Administrator**

1. **MITS Administrator Required.** A Retail Marijuana Establishment must have at least one individual Owner who is a MITS Administrator. A Retail Marijuana Establishment may also designate additional Owners and occupationally licensed employees to obtain MITS Administrator accounts.

2. **Training for MITS Administrator Account.** In order to obtain a MITS Administrator account, a person must attend and successfully complete all required MITS training. The Division may also require additional ongoing, continuing education for an individual to retain his or her MITS Administrator account.

3. **MITS Access - MITS User Accounts.** A Retail Marijuana Establishment may designate licensed Owners and employees who hold valid Occupational Licenses as MITS Users. A Retail Marijuana Establishment shall ensure that all Owners and Occupational License Licensees who are granted
MITS User account access for the purposes of conducting inventory tracking functions in the system are trained by MITS Administrators in the proper and lawful use of MITS.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Establishment

1. Medical Marijuana Inventory Transfer to Retail Marijuana Establishments. Each Medical Marijuana Business that is either converting to or adding a Retail Marijuana Establishment license must create a Retail Marijuana MITS account for each license it is converting or adding. A Medical Marijuana Business must transfer all relevant Medical Marijuana inventory into the Retail Marijuana Establishment’s MITS accounts and affirmatively declare those items as Retail Marijuana and Retail Marijuana Product.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

D. RFID Tags Required

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provision RFID tags for MITS. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where MITS requires RFID tag use. A Retail Marijuana Establishment must ensure it has an adequate supply of RFID tags to properly tag Retail Marijuana and Retail Marijuana Product as required by MITS.

E. General MITS Use

1. Reconciliation with Inventory. All inventory tracking activities at a Retail Marijuana Establishment must be tracked through use of MITS. A Licensee must reconcile all on-premises and in-transit Retail Marijuana and Retail Marijuana Product inventories each day in MITS at the close of business.

2. Common Weights and Measures.
   a. A Retail Marijuana Establishment must utilize a standard of measurement that is supported by MITS to track all Retail Marijuana and Retail Marijuana Product.
   b. A scale used to weigh product prior to entry into the MITS system shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

3. MITS Administrator and User Accounts – Security and Record
   a. A Retail Marijuana Establishment shall maintain an accurate and complete list of all MITS Administrators and MITS Users for each Licensed Premises. A Retail Marijuana Establishment shall update this list when a new MITS User is trained. A Retail Marijuana
Establishment must train and authorize any new MITS Users before those Owners or employees may access MITS or input, modify, or delete any information in MITS.

b. A Retail Marijuana Establishment must cancel any MITS Administrators and MITS Users from their associated MITS accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

c. A Retail Marijuana Establishment is accountable for all actions employees take while logged into MITS or otherwise conducting Retail Marijuana or Retail Marijuana Product inventory tracking activities.

4. **Secondary Software Systems Allowed**

   a. Nothing in this rule prohibits a Retail Marijuana Establishment from using separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems.

   b. A Licensee must ensure that all relevant MITS data is accurately transferred to and from MITS for the purposes of reconciliations with any secondary systems.

   c. A Retail Marijuana establishment must preserve original MITS data when transferred to and from a secondary application(s). Secondary software applications must use MITS data as the primary source of data and must be compatible with updating to MITS.

F. **Conduct While Using MITS**

   1. **Misstatements or Omissions Prohibited.** A Retail Marijuana Establishment and its designated MITS Administrator(s) and MITS User(s) shall enter data into MITS that fully and transparently accounts for all inventory tracking activities. A Retail Marijuana Establishment is responsible for the accuracy of all information entered into MITS. Any misstatements or omissions may be considered a license violation affecting public safety.

   2. **Use of Another User’s Login Prohibited.** Individuals entering data into the MITS system shall only use that individual’s MITS account.

   3. **Loss of System Access.** If at any point a Retail Marijuana Establishment loses access to MITS for any reason, the Retail Marijuana Establishment must keep and maintain comprehensive records detailing all Retail Marijuana and Retail Marijuana Product tracking inventory activities that were conducted during the loss of access. See Rule R 901 – Business Records Required. Once access is restored, all Retail Marijuana and Retail Marijuana Product inventory tracking activities that occurred during the loss of access must be entered into MITS. A Retail Marijuana Establishment must document when access to the system was lost and when it was restored. A Retail Marijuana Establishment shall not transport any Retail Marijuana or Retail Marijuana Product to another Retail Marijuana Establishment until such time as access is restored and all information is recorded into MITS.
G. **System Notifications**

1. **Compliance Notifications.** A Retail Marijuana Establishment must monitor all compliance notifications from MITS. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in MITS until the Retail Marijuana Establishment resolves the compliance issues detailed in the notification.

2. **Informational Notifications.** A Retail Marijuana Establishment must take appropriate action in response to informational notifications received through MITS, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. **Lawful Activity Required.** Proper use of MITS does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. **MITS Procedures Must Be Followed.** A Retail Marijuana Establishment must utilize MITS in conformance with these rules and MITS procedures.
R 400 Series – Retail Marijuana Stores

Basis and Purpose – R 401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-402(1)(a), 12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-309(7)(a), and 12-43.4-901(4)(f), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Store to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

R 401 – Retail Marijuana Store: License Privileges

A. Privileges Granted. A Retail Marijuana Store shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share a location with a commonly-owned Medical Marijuana Center. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only sell Retail Marijuana that it has purchased from a Retail Marijuana Cultivation Facility or that the retailer has cultivated itself, after first obtaining a Retail Marijuana Cultivation Facility License. See Rule R 501 – Retail Marijuana Cultivation Facility: License Privileges.

D. Authorized Sources of Retail Marijuana Product. A Retail Marijuana Store may only sell Retail Marijuana Product that it has purchased from a Retail Marijuana Products Manufacturing Facility, so long as such product is pre-packaged and labeled upon purchase from the manufacturer.

E. Samples Provided for Testing. A Retail Marijuana Store may provide samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. See Rule R 901 – Business Records Required.

F. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

Basis and Purpose – R 402

The statutory authority for this rule is found at subsections 12-43.4-105, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c)(II), 12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 2-43.4-402(7)(a), 12-43.4-402(7)(b), 12-43.4-402(7)(c), 12-43.4-402(9); 12-43.4-901(1), and 12-43.4-901(4), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections
The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Temporary Wholesale Sales and Purchase Limitation. From January 1, 2014 to September 30, 2014, a Retail Marijuana Store shall only sell Retail Marijuana that was grown in its commonly-owned Retail Marijuana Cultivation Facility and subsequently purchased or transferred from the cultivation, with the following exceptions:

1. Purchase Restriction. A Retail Marijuana Store may purchase up to 30 percent of its total on-hand Retail Marijuana inventory, in aggregate, from any Retail Marijuana Establishments that are not its designated Retail Marijuana Cultivation Facility. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.

2. Sales Restriction. A Retail Marijuana Store may sell up to 30 percent of its total on-hand Retail Marijuana inventory, in aggregate, to other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the sale.

3. When Waiver Allowed. On the occasion where a Licensee experiences a catastrophic event, the Licensee may petition the Director for a waiver to exceed the limits mandated in this section.

B. Sales to Persons Under 21 Years. Licensees are prohibited from selling, giving, or distributing Retail Marijuana or Retail Marijuana Product to persons under 21 years of age.

C. Age Verification. Prior to initiating the sale of Retail Marijuana or Retail Marijuana Product, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

D. Quantity Limitations On Sales. A Retail Marijuana Store and its employees are prohibited from selling more than one ounce of Retail Marijuana or its equivalent in Retail Marijuana Product during a single sales transaction to a Colorado resident. A Retail Marijuana Store and its employees are prohibited from selling more than a quarter ounce of Retail Marijuana or its equivalent in Retail Marijuana Product during a single sales transaction to a person who does not have a valid government-issued photo identification card showing that the person is a resident of the state of Colorado. See Rule R 404 – Acceptable Forms of Identification for Retail Sales.

E. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to sell Retail Marijuana or Retail Marijuana Product to a customer.

F. Sales over the Internet. A Licensee is prohibited from selling Retail Marijuana or Retail Marijuana Product over the internet. All sales and transfers of possession of Retail Marijuana and Retail Marijuana Product must occur within the Retail Marijuana Store’s Licensed Premises.
G. **Purchases Only Within Restricted Access Area.** A customer must be physically present within the Restricted Access Area of the Retail Marijuana Store’s Licensed Premises to purchase Retail Marijuana or Retail Marijuana Product.

H. **Evidence of Excise Tax Paid.** If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Store is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility unless the Retail Marijuana Store Licensee has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.

I. **Prohibited Items.** A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

J. **Free Product Prohibited.** A Retail Marijuana Store may not give away Retail Marijuana or Retail Marijuana Product to a consumer for any reason.

K. **Nicotine or Alcohol Prohibited.** A Retail Marijuana Store is prohibited from selling Retail Marijuana or Retail Marijuana Product that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 46 or 47 of Title 12, C.R.S.

L. **Consumption Prohibited.** A Licensee shall not permit the consumption of marijuana or marijuana product on the Licensed Premises.

M. **Storage and Display Limitations.** A Retail Marijuana Store shall not display Retail Marijuana and Retail Marijuana Product outside of a designated Restricted Access Area or in a manner in which Retail Marijuana or Retail Marijuana Product can be seen from outside the Licensed Premises. Storage of Retail Marijuana and Retail Marijuana Product shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

N. **Sale of Expired Product Prohibited.** A Retail Marijuana Store shall not sell any expired Retail Marijuana Product.

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**Basis and Purpose – R 403**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VI), and 12-43.4-202(3)(a)(IX), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

**R 403 – Point of Sale: Restricted Access Area**

A. **Identification of Restricted Access Area.** All areas where Retail Marijuana or Retail Marijuana Product are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12
inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – No One Under 21 Years of Age Allowed.”

B. **Customers in Restricted Access Area.** The Restricted Access Area must be supervised by a Licensee at all times when customers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owners and Occupational Licensees shall make reasonable efforts to limit the number of customers in relation to the number of Owners or employees in the Restricted Access Area at any time.

C. **Display of Retail Marijuana.** The display of Retail Marijuana and Retail Marijuana Product for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the customer must be supervised by the Owner or Occupational Licensees at all times when customers are present.

**Basis and Purpose – R 404**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(b)(VII), and 12-43.4-402(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V). The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Retail Marijuana or Retail Marijuana Product.

**R 404 – Acceptable Forms of Identification for Retail Sales**

A. **Valid Identification to Verify Age Only.** A Licensee shall refuse the sale of Retail Marijuana or Retail Marijuana Product to anyone, unless such person can produce a form of valid identification of 21 years of age. If the identification contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following, so long as such identification is valid and not expired:

1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory;

2. An identification card, issued by any state for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;

3. A United States military identification card;

4. A passport; or

5. Enrollment card issued by the governing authority of a federally recognized Indian tribe located in the state of Colorado, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.

6. See paragraph C of this rule for valid identification to verify Colorado residency.

B. **Affirmative Defense and Licensee’s Burden.** It shall be an affirmative defense to any administrative action brought against a Licensee for alleged sale to a minor if the minor presented fraudulent identification of the type established in paragraph A above and the Licensee possessed an identification book issued within the past three years, which contained a sample of the specific kind of identification presented for compliance
purposes. As an affirmative defense, the burden of proof is on the Licensee to establish by a preponderance of the evidence that the minor presented fraudulent identification.

C. **Valid Identification to Verify Colorado Residency.** A Licensee shall refuse the sale of more than one quarter of an ounce of Retail Marijuana or its equivalent in Retail Marijuana Product to anyone, unless such person can produce a form of valid identification of Colorado residency. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate to establish Colorado residency for purchase shall be limited to the following:

1. Valid state of Colorado driver’s license;
2. Valid state of Colorado identification card; or
3. Any other valid government-issued picture identification that demonstrates that the holder of the identification is a Colorado resident.
4. No combination of identification or documents may be used to establish residency.

**Basis and Purpose – R 405**

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-402(1)(e), C.R.S. The purpose of this rule is to establish a Retail Marijuana Store's obligation to account for and track all inventories on the Licensed Premises from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility to the point of sale.

**R 405 – Retail Marijuana Store: Marijuana Inventory Tracking Solution**

A. **Minimum Tracking Requirement.** A Retail Marijuana Store must use MITS to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility through the point of sale, given to a Retail Marijuana Testing Facility, or otherwise disposed of. *See also* Rule R 309 – Retail Marijuana Establishment: Marijuana Inventory Tracking Solution (MITS). The Retail Marijuana Store must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

1. A Retail Marijuana Store is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transport manifest generated from MITS.
2. A Retail Marijuana Store must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility. All delivered Retail Marijuana must be weighed and the scale used shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. A Retail Marijuana Store must account for all variances.
3. A Retail Marijuana Store must reconcile transactions from their point of sale processes and on-hand inventory to MITS at the close of business each day.

**Basis and Purpose – R 406**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(X), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Stores. It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado’s Retail Marijuana businesses and the safety of the public.

**R 406 –Retail Marijuana Store: Health and Safety Regulations:**

A. **Local Safety Inspections.** A Retail Marijuana Store may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. **Sanitary Conditions.** A Retail Marijuana Store shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Retail Marijuana and Retail Marijuana Product, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Retail Marijuana or Retail Marijuana Product shall conform to hygienic practices while on duty, including but not limited to:
   a. Maintaining adequate personal cleanliness;
   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated; and
c. Refraining from having direct contact with Retail Marijuana or Retail Marijuana Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Product are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

6. That there is adequate lighting in all areas where Retail Marijuana or Retail Marijuana Product are stored or sold, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Product and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

11. That each employee is provided with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
R 500 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – R 501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-403(1), and 12-43.4-403(5), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Cultivation Facility to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 501 – Retail Marijuana Cultivation Facility: License Privileges

A. Privileges Granted. A Retail Marijuana Cultivation Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share a location with a commonly-owned Optional Premises Cultivation Operation. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Cultivation of Retail Marijuana Authorized. A Retail Marijuana Cultivation Facility may Propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana, whether in concentrated form or otherwise.

D. Authorized Sales. A Retail Marijuana Cultivation Facility may only sell Retail Marijuana to a Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and other Retail Marijuana Cultivation Facility(-ies), subject to the temporary limitations set forth in Rules R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts and R 502 – Retail Marijuana Cultivation Facilities: General Limitations or Prohibited Acts.

E. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premise must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

Basis and Purpose – R 502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-403(2)(a), 12-43.4-403(2)(b), 12-43.4-403(2)(c), 12-43.4-403(3), 12-43.4-403(6), and 12-43.3-901(2)(a), and section 12-43.4-404, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility.

R 502 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Temporary Limitations

1. Issuance of Cultivation Licenses. From January 1, 2014 to September 30, 2014, a Retail Marijuana Cultivation Facility license shall only be issued to a Person who has been issued a Retail Marijuana Store license or a Retail Marijuana Products Manufacturing Facility license.
2. **Temporary Sales Limitation.** From January 1, 2014 to September 30, 2014, any Retail Marijuana that is grown in a licensed Retail Marijuana Cultivation Facility must be sold or transferred to its designated and commonly-owned Retail Marijuana Store. However, a Retail Marijuana Cultivation Facility may sell up to 30 percent of its processed and finished Retail Marijuana inventory to other Retail Marijuana Establishments. A Licensee shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.

B. **Packaging and Labeling Standards Required.** A Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana that is not packaged and labeled in accordance with these rules. See Rules R 1001 – Packaging Requirements: General Requirements and R 1002 – Labeling Requirements: General Requirements.

C. **Sale to Consumer Prohibited.** A Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana to a consumer.

D. **Consumption Prohibited.** A Retail Marijuana Cultivation Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. **Excise Tax Paid.** If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., and shall provide verification to purchasers of the Retail Marijuana that any required excise tax was paid.

**Basis and Purpose – R 503**

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-403(4), C.R.S. The purpose of this rule is to establish a Retail Marijuana Cultivation Facility’s obligation to account for and track all inventories on the Licensed Premises from seed or cutting to transfer or sale to other Retail Marijuana Establishments.

**R 503 – Retail Marijuana Cultivation Facility: Marijuana Inventory Tracking Solution (MITS)**

A. **Minimum Tracking Requirement.** A Retail Marijuana Cultivation Facility must use MITS to ensure its inventories are identified and tracked from the point Retail Marijuana is Propagated from seed or cutting to the point when it is delivered to a Retail Marijuana Establishment. See also Rule R 309 – Marijuana Inventory Tracking Solution (MITS). A Retail Marijuana Cultivation Facility must have the ability to reconcile its Retail Marijuana inventory with MITS and the associated transaction history and sale receipts. See also Rule R 901 – Business Records Required.

B. **Transport of Retail Marijuana Without Transport Manifest Prohibited.** A Retail Marijuana Cultivation Facility is prohibited from transporting any Retail Marijuana without a valid transport manifest generated by MITS.

C. **Accepting Retail Marijuana Without Transport Manifest Prohibited.** Retail Marijuana Facility is prohibited from accepting any Retail Marijuana from another Retail Marijuana Cultivation Facility without receiving a valid transport manifest generated from MITS.
D. **Input Into MITS Required.** A Retail Marijuana Cultivation Facility must immediately input all Retail Marijuana delivered to its Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from another Retail Marijuana Cultivation Facility.

E. **Inventory Must Be Reconciled Daily.** A Retail Marijuana Cultivation Facility must reconcile its transaction history and on-hand inventory to MITS at the close of business each day.

**Basis and Purpose – R 504**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Cultivation Facilities.

**R 504 – Retail Marijuana Cultivation Facility: Health and Safety Regulations**

A. **Local Safety Inspections.** A Retail Marijuana Cultivation Facility may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. **General Sanitary Requirements.** A Retail Marijuana Cultivation Facility shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Retail Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That all persons working in direct contact with Retail Marijuana shall conform to hygienic practices while on duty, including but not limited to:

   a. Maintaining adequate personal cleanliness;

   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;

   c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and

   d. Refraining from having direct contact with Retail Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
3. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana is exposed;

4. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

5. That there is adequate lighting in all areas where Retail Marijuana are stored or sold, and where equipment or utensils are cleaned;

6. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

7. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

8. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Retail Marijuana concentrates, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance;

9. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana or Retail Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environmental Protection Agency shall be used in a Retail Marijuana Products Manufacturing Facility and used in accordance with labeled instructions;

10. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility’s needs;

11. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;

12. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

13. That each Retail Marijuana Cultivation Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

14. That Retail Marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
C. **Sanitary Requirements for Concentrate Production.** If a Retail Marijuana Cultivation Facility produces Retail Marijuana concentrates, all areas in which those concentrates are produced shall be subject to all of sanitary requirements for a Retail Marijuana Manufacturing Facility. See Rule R 605 – Sanitary Requirements.

D. **Prohibited Chemicals.** The following chemicals shall not be used in Retail Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this rule. Prohibited chemicals are:

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>CAS Registry Number (or EDF Substance ID)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALDRIN</td>
<td>309-00-2</td>
</tr>
<tr>
<td>ARSENIC OXIDE (3)</td>
<td>1327-53-3</td>
</tr>
<tr>
<td>ASBESTOS (FRIABLE)</td>
<td>1332-21-4</td>
</tr>
<tr>
<td>AZODRIN</td>
<td>6923-22-4</td>
</tr>
<tr>
<td>1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-</td>
<td>118-75-2</td>
</tr>
<tr>
<td>BINAPACRYL</td>
<td>485-31-4</td>
</tr>
<tr>
<td>2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL</td>
<td>126-15-8</td>
</tr>
<tr>
<td>BROMOXYNIL BUTYRATE</td>
<td>EDF-186</td>
</tr>
<tr>
<td>CADMIUM COMPOUNDS</td>
<td>CAE750</td>
</tr>
<tr>
<td>CALCIUM ARSENATE [2ASH3O4.2CA]</td>
<td>7778-44-1</td>
</tr>
<tr>
<td>CAMPHECHLOR</td>
<td>8001-35-2</td>
</tr>
<tr>
<td>CAPTAFOL</td>
<td>2425-06-1</td>
</tr>
<tr>
<td>CARBOFURAN</td>
<td>1563-66-2</td>
</tr>
</tbody>
</table>
CARBON TETRACHLORIDE
56-23-5

CHLORDANE
57-74-9

CHLORDECON (KEPONE)
143-50-0

CHLORDIMEFORM
6164-98-3

CHLOROBENZILATE
510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-183

COPPER ARSENATE
10103-61-4

2,4-D, ISOOCTYL ESTER
25168-26-7

DAMINOZIDE
1596-84-5

DDD
72-54-8

DDT
50-29-3

DI(PHENYLMERCUry)DODECENYL SUCCINATE [PMDS] EDF-187

1,2-DIBROMO-3-CHLOROPROPAne (DBCP)
96-12-8

1,2-DIBROMOETHANE
106-93-4

1,2-DICHLOROETHANE
107-06-2

DIELDRIN
60-57-1

4,6-DINITRO-O-CRESOL
534-52-1

DINITROBUTYL PHENOL

59
88-85-7
ENDRIN
72-20-8
EPN
2104-64-5
ETHYLENE OXIDE
75-21-8
FLUOROACETAMIDE
640-19-7
GAMMA-LINDANE
58-89-9
HEPTACHLOR
76-44-8
HEXACHLOROBENZENE
118-74-1
1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)
608-73-1
1,3-HEXANEDIOL, 2-ETHYL-
94-96-2
LEAD ARSENATE
7784-40-9
LEPTOPHOS
21609-90-5
MERCURY
7439-97-6
METHAMIDOPHOS
10265-92-6
METHYL PARATHION
298-00-0
MEVINPHOS
7786-34-7
MIREX
2385-85-5
NITROFEN
1836-75-5
OCTAMETHYLDIPHOSPHORAMIDE
152-16-9
PARATHION
56-38-2
PENTACHLOROPHENOL
87-86-5
PHENYLMERCURIC OLEATE [PMO]
EDF-185
PHOSPHAMIDON
13171-21-6
PYRIMINIL
53558-25-1
SAFROLE
94-59-7
SODIUM ARSENATE
13464-38-5
SODIUM ARSENITE
7784-46-5
2,4,5-T
93-76-5
TERPENE POLYCHLORINATES (STROBANE6)
8001-50-1
THALLIUM(I) SULFATE
7446-18-6
2,4,5-TP ACID (SILVEX)
93-72-1
TRIBUTYL Tin COMPOUNDS
EDF-184
2,4,5-TRICHLOROPHENOL
95-95-4
VINYL CHLORIDE
75-01-4

E. The use of Dimethylsulfoxide ("DMSO") in the production of Retail Marijuana shall be prohibited and possession of DMSO upon the Licensed Premises is prohibited.
F. That all sanitary requirements shall also apply to any Occupational Licensee making a Retail Marijuana concentrate on the Licensed Premises.

G. Retail Marijuana Cultivation Facilities may only produce water based Retail Marijuana concentrates on its Licensed Premises and only in an area so designated clearly on the current diagram of the Licensed Premises. See Rule R 901- Business Records Required. A Retail Marijuana Cultivation Facility is prohibited from engaging in any other method of extraction.

Basis and Purpose – R 505

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-403(5), C.R.S. The purpose of this rule is to establish that Retail Marijuana Cultivation Facilities may provide Samples for testing and research purposes.

R 505 – Retail Marijuana Cultivation Facilities: Testing Requirements

A. **Samples on Demand.** A Retail Marijuana Cultivation Facility shall, upon request of the Division, submit a sufficient quantity of Retail Marijuana to a Retail Marijuana Testing Facility to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis.

B. **Samples Provided for Testing.** A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. See Rule R 901 – Business Records Required.
R 600 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – R 601

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-306(1)(j), 12-43.4-309(7)(a), 12-43.4-404(1)(a), 12-43.4-404(1)(b), and 12-43.4-404(6), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Products Manufacturing Facility to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 601 – Retail Marijuana Products Manufacturing Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Products Manufacturing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturing Facility may share a location with a commonly owned Medical Marijuana-Infused Products Manufacturing Business. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Sales Restricted. A Retail Marijuana Products Manufacturing Facility may only sell Retail Marijuana Product to Retail Marijuana Stores and to other Retail Marijuana Products Manufacturing Facilities.

D. Manufacture of Retail Marijuana Product Authorized. A Retail Marijuana Products Manufacturing Facility may manufacture, prepare, package, store, and label Retail Marijuana Product, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.

E. Location Prohibited. A Retail Marijuana Products Manufacturing Facility may not manufacture, prepare, package, store, or label Retail Marijuana Product in a location that is operating as a retail food establishment or a wholesale food registrant.

F. Samples Provided for Testing. A Retail Marijuana Products Manufacturing Facility may provide samples of its Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturing Facility shall maintain the testing results as part of its business books and records.

Basis and Purpose – R 602

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII)(K), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(c)(V), 12-43.4-309(7)(a), 12-43.4-404(1)(c)(l), 12-43.4-404(1)(d), 12-43.4-404(1)(e)(l), 12-43.4-404(4), 12-43.4-404(5), 12-43.4-404(9), and 12-43.3-901(2)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturing Facility.
R 602 – Retail Marijuana Products Manufacturing Facility: General Limitations or Prohibited Acts

A. Temporary Sales Limitation. From January 1, 2014 to September 30, 2014, a Retail Marijuana Products Manufacturing Facility shall not sell any of the Retail Marijuana that was cultivated in its commonly-owned Retail Marijuana Cultivation Facility to any other Retail Marijuana Establishment. Such Retail Marijuana shall be used solely in Retail Marijuana Product produced by the Retail Marijuana Products Manufacturing Facility.

B. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana Product that are not properly packaged and labeled. See R 1000 Series – Labeling, Packaging, and Product Safety.

C. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. See Rule R 1004 – Labeling Requirements: Specific Requirements, Edible Retail Marijuana Product.

D. Sale to Consumer Prohibited. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana or Retail Marijuana Product to a consumer.

E. Consumption Prohibited. A Retail Marijuana Products Manufacturing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

F. Evidence of Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Products Manufacturing Facility is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility Licensee unless the manufacturer has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.

G. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturing Facility must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

H. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility must ensure that its manufacturing processes are designed so that the cannabinoid content of any Edible Retail Marijuana Product is homogenous.

Basis and Purpose – R 603

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-404 (1)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to require all Retail Marijuana Products Manufacturing Facilities to track all inventory from the point it is received from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility, through any manufacturing processes, to the point of sale or transfer to another Retail Marijuana Establishment.
Minimum Tracking Requirement. A Retail Marijuana Products Manufacturing Facility must use MITS to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility through wholesale transaction or transfer. See also Rule R 309 – Marijuana Inventory Tracking Solution (MITS). A Retail Marijuana Products Manufacturing Facility must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. See also Rule R 901 – Business Records Required.

1. A Retail Marijuana Products Manufacturing Facility is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transport manifest generated from MITS.

2. A Retail Marijuana Products Manufacturing Facility must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility.

3. A Retail Marijuana Products Manufacturing Facility must reconcile transactions to MITS at the close of business each day.

Basis and Purpose – R 604

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Products Manufacturing Facilities. It sets forth general standards and basic sanitary requirements for Retail Marijuana Products Manufacturing Facilities. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado’s Retail Marijuana businesses and the safety of the public.

R 604 – Health and Safety Regulations: Retail Marijuana Products Manufacturing Facility

A. General Standards

1. A Retail Marijuana Products Manufacturing Facility may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.
2. A Retail Marijuana Products Manufacturing Facility that manufacturers edible Retail Marijuana Product shall comply with all kitchen-related health and safety standards of the relevant local jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

B. General Sanitary Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Retail Marijuana or Retail Marijuana Product shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility and/or in Retail Marijuana Product preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with preparation of Retail Marijuana or Retail Marijuana Product shall conform to hygienic practices while on duty, including but not limited to:
   a. Maintaining adequate personal cleanliness;
   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated; and
   c. Refraining from having direct contact with preparation of Retail Marijuana or Retail Marijuana Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Retail Marijuana or Retail Marijuana Product;

5. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Product are exposed;

6. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

7. That there is adequate safety-type lighting in all areas where Retail Marijuana or Retail Marijuana Product are processed or stored and where equipment or utensils are cleaned;
8. That the facility provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

9. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

10. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana or Retail Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environmental Protection Agency shall be used in Retail Marijuana Products Manufacturing Facilities and used in accordance with labeled instructions;

11. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Retail Marijuana concentrates, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Product, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

12. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility’s needs;

13. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;

14. That each Retail Marijuana Products Manufacturing Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

15. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

16. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

17. That storage and transport of finished Retail Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.
R 700 Series – Retail Marijuana Testing Facilities

Basis and Purpose – R 701

The statutory authority for this rule is found at subsections 12-43.3-402(6), 12-43.3-202(1)(b), 12-12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-309(7)(a), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), and section 12-43.4-405, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Testing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 701 - Retail Marijuana Testing Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Retail Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

C. Testing of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana or Retail Marijuana Product from Retail Marijuana Establishments for testing and research purposes only. The Division may require a Retail Marijuana Establishment to submit a sample of Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Testing Facility upon demand.

D. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 12-43.4-404, C.R.S. and Rule R 601 – Retail Marijuana Manufacturing Facilities: License Privileges.

E. Medical Marijuana Occupational License for Testing and Research. A Retail Marijuana Testing Facility that has applied for and obtained a Medical Marijuana Occupational License for Testing and Research may accept Samples of Medical Marijuana or Medical Marijuana-Infused Product from Medical Marijuana Businesses for testing and research purposes only.

F. Sending Samples to Other Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may send Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to a Retail Marijuana Establishment must identify the Retail Marijuana Testing Facility that actually conducted the test.

Basis and Purpose – R 702

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-405(3), and 12-43.3-901(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility.

R 702 –Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

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A. **Prohibited Financial Interest.** A Person who is an Owner of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, a Retail Marijuana Store, or a Medical Marijuana Business shall not be an Owner of a Retail Marijuana Testing Facility.

B. **Sale of Retail Marijuana Prohibited.** A Retail Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product to another Retail Marijuana Establishment, a Medical Marijuana Business, or a consumer, except that a Retail Marijuana Testing Facility may transfer a Sample to another Retail Marijuana Testing Facility.

C. **Destruction of Received Retail Marijuana.** A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. See Rule R 307 – Waste Disposal.

D. **Consumption Prohibited.** A Retail Marijuana Testing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. **Sample Rejection.** A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that the sample may have been tampered with.

F. **Retail Marijuana Establishment Requirements Applicable.** A Retail Marijuana Testing Facility shall be considered Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Establishments.

G. **Retail Marijuana Testing Facility – MITS Required.** A Retail Marijuana Testing Facility must use MITS to ensure its Samples are identified and tracked from the point they are transferred from a Retail Marijuana Establishment or Medical Marijuana Business through the point of destruction or disposal. See also Rule R 309 – Retail Marijuana Establishment: Marijuana Inventory Tracking Solution (MITS). The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with MITS and the associated transaction history. See also Rule R 901 – Business Records Required.

**Basis and Purpose – R 703**

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a framework for certification for Retail Marijuana Testing Facilities.

**R 703 – Retail Marijuana Testing Facilities: Certification Requirements**

A. **Certification Types.** A Retail Marijuana Testing Facility may only perform tests on Samples that the Retail Marijuana Testing Facility is certified by the Division to perform.

1. Residual solvents;
2. Poisons or Toxins;
3. Harmful Chemicals;
4. Dangerous Molds, Mildew or Filth;
5. Harmful Microbials, such as E. Coli or Salmonella;
6. Pesticides; and
7. THC and other Cannabinoid potency.

B. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, proficiency testing, quality control, quality assurance, security, chain of custody, specimen retention, space, records, and results reporting.

3. Personnel Qualifications
   a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in order to obtain and maintain certification. See Rule R 704 – Retail Marijuana Testing Facilities: Personnel.
   b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.
   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.
   b. A Retail Marijuana Testing Facility must maintain a copy of all Standard Operating Procedures to include any revised copies for a minimum of three years. See Rule R 901 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.
6. **Proficiency Testing.** A Retail Marijuana Testing Facility must successfully participate in a Division approved proficiency testing program in order to obtain and maintain certification.

7. **Quality Assurance and Quality Control.** A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. **Security.** A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. **Chain of Custody.** A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. **Space.** A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. **Records.** A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years.

12. **Results Reporting.** A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner.

**Basis and Purpose – R 704**

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility.

**R 704 –Retail Marijuana Testing Facilities: Personnel**

A. **Laboratory Director.** The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this rule.

   1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

   2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

      a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in toxicology, analytical chemistry or diagnostic laboratory testing;

      b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in toxicology, analytical chemistry or diagnostic laboratory testing; or
c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in toxicology, analytical chemistry or diagnostic laboratory testing.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. See Rule R 901 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in a Division approved proficiency testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;
15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor’s degree in one of the natural sciences and three years of full-time experience performing toxicology, analytical chemistry, or diagnostic laboratory testing.

E. Laboratory Testing Analyst

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or have at least a bachelor’s degree in one of the natural sciences and one year of full-time experience in laboratory testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

R 705 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish Standard Operating Procedure Manual standards for the operation of a Retail Marijuana Testing Facility.


A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Specimen receiving;

2. Specimen accessioning;
3. Specimen storage;
4. Identifying and rejecting unacceptable specimens;
5. Recording and reporting discrepancies;
6. Security of specimens, aliquots and extracts and records;
7. Validating a new or revised method prior to testing specimens to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;
8. Aliquoting specimens to avoid contamination and carry-over;
9. Sample retention to assure stability for one year;
10. Disposal of specimens;
11. The theory and principles behind each assay;
12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);
13. Special requirements and safety precautions involved in performing assays;
14. Frequency and number of control and calibration materials;
15. Recording and reporting assay results;
16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;
17. Pertinent literature references for each method;
18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;
19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;
20. A documented system for reviewing the results of testing calibrators, controls, standards, and subject tests results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results? Are corrective actions implemented and documented, and does the laboratory contact the requesting entity; and
21. Policies and procedures to follow when specimens are requested for referral and testing by another certified laboratory.

R 706 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Retail Marijuana Testing Facility.
R 706 –Retail Marijuana Testing Facilities: Analytical Processes

A. **Gas Chromatography ("GC").** A Retail Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;
2. Perform and document preventive maintenance as required by the manufacturer;
3. Ensure that records are maintained and readily available to the staff operating the equipment;
4. Document the performance of new columns before use;
5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;
6. Establish criteria of acceptability for variances between different aliquots and different columns; and
7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. **Gas Chromatography Mass Spectrometry ("GC/MS").** A Retail Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;
2. Document the changes of septa as specified in the Standard Operating Procedure;
3. Document liners being cleaned or replaced as specified in the Standard Operating Procedure;
4. Ensure that records are maintained and readily available to the staff operating the equipment;
5. Maintain records of mass spectrometric tuning;
6. Establish written criteria for an acceptable mass-spectrometric tune;
7. Document corrective actions if a mass-spectrometric tune is unacceptable;
8. Monitor analytic analyses to check for contamination and carry-over;
9. Use selected ion monitoring within each run to assure that the laboratory compare ion ratios and retention times between calibrators, controls and specimens for identification of an analyte;
10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;
11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;
12. Define the criteria for designating qualitative results as positive;
13. When a library is used to qualitatively match an analyte, the relative retention time and mass spectra from a known standard or control must be run on the same system before reporting the results; and
14. Evaluate the performance of the instrument after routine and preventive maintenance (e.g. clipping or replacing the column or cleaning the source) prior to analyzing subject samples.

C. **Immunoassays.** A Retail Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;
2. Ensure that records are maintained and readily available to the staff operating the equipment;
3. Validate any changes or modifications to a manufacturer’s approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and
4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer’s instructions.

D. **Thin Layer Chromatography ("TLC").** A Retail Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;
2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;
3. Include in their written procedure the storage of unused thin layer chromatographic plates;
4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;
5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;
6. Measure all appropriate RF values for qualitative identification purposes;
7. Use and record sequential color reactions, when applicable;
8. Maintain records of thin layer chromatographic plates; and
9. Analyze an appropriate matrix blank with each batch of specimens analyzed.

E. **High Pressure Liquid Chromatography ("HPLC").** A Retail Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;
2. Ensure that records are maintained and readily available to the staff operating the equipment;
3. Monitor and document the performance of the HPLC instrument each day of testing;
4. Evaluate the performance of new columns before use;
5. Create written standards for acceptability when eluting solvents are recycled;
6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and
7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.
F. **Liquid Chromatography Mass Spectroscopy ("LC/MS").** A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;
2. Ensure that records are maintained and readily available to the staff operating the equipment;
3. Maintain records of mass spectrometric tuning;
4. Document corrective actions if a mass-spectrometric tune is unacceptable;
5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;
6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;
7. Compare two transitions and retention times between calibrators, controls and specimens within each run;
8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and
9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. **Other Analytical Methodology.** A Retail Marijuana Testing Facility using other methodology or new methodology must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:
   
   a. Verification of Accuracy
   
   b. Verification of Precision
   
   c. Verification of Analytical Sensitivity
   
   d. Verification of Analytical Specificity
   
   e. Verification of the LOD
   
   f. Verification of the LOQ
   
   g. Verification of the Reportable Range
   
   h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.
3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing samples.

R 707 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a proficiency testing program for Retail Marijuana Testing Facilities.

R 707 – Retail Marijuana Testing Facilities: Proficiency Testing

A. **Proficiency Testing Required.** A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification.

B. **Participation in Designated Proficiency Testing Event.** If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in a Proficiency Test in the category for which it seeks certification, within the preceding 12 months.

C. **Continued Certification.** To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification.

D. **Analyzing Proficiency Testing Samples.** A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for product testing.

E. **Proficiency Testing Challenge Attestation.** The laboratory director and all testing analysts that participated in a Proficiency Test must sign corresponding attestation statements.

F. **Laboratory Director Must Review Results.** The laboratory director must review and evaluate all Proficiency Test results.

G. **When Remedial Action Required.** A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved during a Proficiency Test. Remedial action documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing challenge.

H. **What Constitutes Successful or Unsatisfactory Participation in Proficiency Testing Event.** Successful participation is the positive identification of 80% of the target analytes that the Retail Marijuana Testing Facility reports to include quantitative results when applicable. Any false positive results reported will be considered an unsatisfactory score for the Proficiency Testing event.

I. **Consequence of Unsuccessful Participation in Proficiency Testing Event.** Unsuccessful participation in a Proficiency Test may result in limitation, suspension or revocation of certification.
R 708 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility.

R 708 – Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Retail Marijuana Testing Facility to include calibration standards, controls and the Standard Operating Procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;
8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

R 709 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains.

R 709 – Retail Marijuana Testing Facilities: Chain of Custody

General Requirements. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Sample requirement instructions that must include, but not be limited to;

1. Issue instructions for the minimum Sample requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Sample;

3. Document the condition and amount of Sample provided at the time of receipt;
4. Document all persons handling the original Samples, aliquots, and extracts;

5. Document all transfers of Samples, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Samples;

10. Ensure Samples are stored appropriately; and

11. Document the disposal of Samples, aliquots, and extracts.

Basis and Purpose – R 710

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility.

R 710 –Retail Marijuana Testing Facilities: Records Retention


B. Specific Business Records Required: Three Year Retention. A Retail Marijuana Testing Facility must establish processes to preserve records for a minimum of three years that includes, but is not limited to;

1. Test Results;

2. Quality Control and Quality Assurance Records;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records;

6. Proficiency Testing Records; and

7. Analytical Data to include printouts generated by the instrumentation.

C. Specific Business Records Required: Five Year Retention. A Retail Marijuana Testing Facility must establish processes to preserve records for a minimum of five years of testing to include, accession numbers, specimen type, raw data of calibration standards and curves, controls and subject results, final and amended reports, acceptable reference range parameters, and identification of analyst and date of analysis.
Basis and Purpose – R 711

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish reporting standards for a Retail Marijuana Testing Facility.

R 711 – Reporting

**Required Procedures.** A Retail Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise and scientifically valid prior to reporting that include the following processes;

1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;

2. Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;

3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;

4. Adequately document the available external chain of custody information;

5. Ensure all final reports contain the name and location of the Retail Marijuana Testing Facility Licensee, name and unique identifier of sample, submitting client, sample received date, date of report, type of specimen tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies;

6. Provide the final report to the submitting client in a timely manner; and

7. Provide copies of final reports to the Division when results of tested samples exceed maximum levels of allowable contamination within 72 hours of obtaining the final result.
R 800 Series – Transport and Storage

Basis and Purpose – R 801

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c)(IV), 12-43.4-202(3)(a)(X), 12-43.4-309(4), 12-43.3-310(5), and 12-43.4-401(1), C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Retail Marijuana and Retail Marijuana Product between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

R 801 – Transport of Retail Marijuana and Retail Marijuana Product

A. Persons Authorized to Transport. The only Persons authorized to transport Retail Marijuana or Retail Marijuana Product are those licensed by the State Licensing Authority pursuant to sections 12-43.3-401 (when applicable) and 12-43.4-401, C.R.S.; including those holding Owner and Occupational Licenses. An individual who does not possess a current and valid Owner or Occupational License from the State Licensing Authority may not transport Retail Marijuana or Retail Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises. Retail Marijuana and Retail Marijuana Product shall only be transported between Licensed Premises and between Licensed Premises and a permitted off-premises storage facility. Licensees transporting Retail Marijuana and Retail Marijuana Product are responsible for ensuring that all Retail Marijuana and Retail Marijuana Product are secured at all times during transport.

C. MITS-Generated Transport Manifest Required. A Licensee may only transport Retail Marijuana or Retail Marijuana Product if he or she has a hard copy of a MITS-generated transport manifest that contains all the information required by this rule and shall be in the format prepared by the State Licensing Authority. A Licensee may transport Retail Marijuana or Retail Marijuana Product from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific licensed locations.

D. Motor Vehicle Required. Transport of Retail Marijuana and Retail Marijuana Product shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee.

E. Documents Required During Transport. Transport of Retail Marijuana or Retail Marijuana Product shall be accompanied by a copy of the originating Retail Marijuana Establishment’s business license, the driver’s valid Owner or Occupational License, the driver’s valid motor vehicle operator’s license, and all required vehicle registration information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Retail Marijuana and Retail Marijuana Product on any public road within the state of Colorado as authorized in this rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Retail Marijuana or Retail Marijuana Product.

G. Preparation of Retail Marijuana and Retail Marijuana Product for Transport
1. **Final Weighing and Packaging.** A Retail Marijuana Establishment shall comply with the specific rules associated with the final weighing and packaging of Retail Marijuana and Retail Marijuana Product before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

2. **Preparation in Limited Access Area.** Retail Marijuana and Retail Marijuana Product shall be prepared for transport in a Limited Access Area, including the packing and labeling of Shipping Containers.

3. **Shipping Containers.** All Shipping Containers must be affixed with an RFID tag prior to transport. Sealed packages or Containers may be placed in larger Shipping Containers, so long as such Shipping Containers are labeled in accordance with the R 1000 Series. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

### H. Creation of Records and Inventory Tracking

1. **Use of MITS-Generated Transport Manifest.** Licensees who transport Retail Marijuana or Retail Marijuana Product shall create a MITS-generated transport manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The transport manifest may either reflect all deliveries for multiple locations within a single trip or separate transport manifests may reflect each single delivery. In either case, no inventory shall be transported without a MITS-generated transport manifest.

2. **Copy of Transport Manifest to Receiver.** A Licensee shall provide a copy of the transport manifest to each Retail Marijuana Establishment receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate MITS-generated transport manifest for each receiving Retail Marijuana Establishment.

3. The MITS-generated transport manifest shall include the following:
   a. Departure date and approximate time of departure;
   b. Name, location address, and license number of the originating Retail Marijuana Establishment;
   c. Name, location address, and license number of the destination Retail Marijuana Establishment(s);
   d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);
   e. Arrival date and estimated time of arrival;
   f. Delivery vehicle make and model and license plate number; and
g. Name, Occupational License number, and signature of the Licensee accompanying the transport.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. See Rule R 901 – Business Records Required.

1. Responsibilities of Originating Licensee. Prior to departure, the originating Retail Marijuana Establishment shall adjust its records to reflect the removal of Retail Marijuana or Retail Marijuana Product. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the records shall note the MITS-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Receiving Licensee. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana or Retail Marijuana Product received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the MITS-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

3. Discrepancies. A receiving Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in MITS and in any relevant business records.

K. Adequate Care of Perishable Retail Marijuana Product. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product during transport.

Basis and Purpose – R 802

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-701(2), C.R.S. The purpose of this rule is to establish that Retail Marijuana or Retail Marijuana Product may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. Rule 802.G was amended to require Retail Marijuana Establishments to submit proof of local approval or acknowledgement with an application for an off-premises storage facility. This change was made due to comments received from a local jurisdiction representative.

R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Product

A. Off-Premises Storage Permit Authorized. A Retail Marijuana Establishment may only store Retail Marijuana or Retail Marijuana Product in its Licensed Premises or in its one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Retail Marijuana Establishment must apply on current Division forms and pay any applicable fees.
C. **Extension of Licensed Premises.** A permitted off-premises storage facility shall constitute an extension of the Retail Marijuana Establishment’s Licensed Premises, subject to all applicable Retail Marijuana regulations.

D. **Limitation on Inventory to be Stored.** The Retail Marijuana Establishment may only have upon the permitted off-premises storage facility Retail Marijuana or Retail Marijuana Product that are part of its finished goods inventory. The Licensee may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail marijuana Establishment that is not commonly-owned.

E. **Restrictions.** The permitted off-premises storage facility may be utilized for storage only. A Retail Marijuana Establishment may not sell, cultivate, manufacture, process, test, or consume any Retail Marijuana or Retail Marijuana Product within the premises of the permitted off-premises storage facility.

F. **Display of Off-premises Storage Permit and License.** The off-premises storage facility permit and a copy of the Retail Marijuana Establishment’s license must be displayed in a prominent place within the permitted off-premises storage facility.

G. **Local Jurisdiction Approval**
   1. Prior to submitting an application for an off-premises storage facility permit, the Retail Marijuana Establishment must obtain approval or acknowledgement from the relevant local jurisdiction.
   2. A copy of the relevant local jurisdiction’s approval or acknowledgement must be submitted by the Retail Marijuana Establishment in conjunction with its application for an off-premises storage facility.
   3. No Retail Marijuana or Retail Marijuana Product may be stored within a permitted storage facility until the relevant local jurisdiction has been provided a copy of the off-premises storage facility permit.
   4. Any off-premises storage permit issued by the Division shall be conditioned upon the Retail Marijuana Establishment’s receipt of all required local jurisdiction approvals or acknowledgments.


I. **Transport to and from a Permitted Off-Premises Storage Facility.** A Licensee must comply with the provisions of Rule R 801 - Transport of Retail Marijuana and Retail Marijuana Product when transporting any Retail Marijuana or Retail Marijuana Product to a permitted off-premises storage facility.

J. **Inventory Tracking.** In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall utilize MITS to track its inventories from the point of transfer to or from a permitted off-premises storage facility. See Rules R 309 – Retail Marijuana Establishment: Marijuana Inventory Tracking Solution (MITS) and R 901 – Business Records Required.

K. **MITS Access and Scale.** Every permitted off-premises storage facility must have a MITS terminal and a scale certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.
L. **Adequate Care of Perishable Retail Marijuana Product.** A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. **Consumption Prohibited.** A Retail Marijuana Establishment shall not permit the consumption of marijuana or marijuana Product on the premises of its permitted off-premises storage facility.
R 900 Series – Business Records

Basis and Purpose – R 901

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), and section 12-43.4-310, C.R.S. This rule explains what business records a Licensee must maintain and clarifies that such records must be made available to the Division on demand. Rule R 901.B was added due to written commentary received from an industry representative.

R 901 – Business Records Required

A. General Requirements

1. A Retail Marijuana Establishment must maintain the information required in this rule in a format that is readily understood by a reasonably prudent business person.

2. Each Retail Marijuana Establishment shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years.

   a. On premises records: The Retail Marijuana Establishment’s books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times.

   b. On- or off-premises records: Books and records associated with older periods may be archived on or off of the Licensed Premises.

3. The books and records must fully account for the transactions of the business and must include, but shall not be limited to:

   a. Current Employee List – This list must provide the full name and Occupational License number of each employee and all non-employee Owners, who work at a Retail Marijuana Establishment.

   b. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Retail Marijuana Establishment must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

   c. Advertising Records - All records related to Advertising and marketing, including, but not limited to, audience composition data.

   d. Licensed Premises – Diagram of all approved Limited Access Areas and any permitted off-premises storage facilities.

   e. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.
f. All records normally retained for tax purposes.

B. **Loss of Records and Data.** Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.

C. **Violation Affecting Public Safety.** Violation of this rule may constitute a license violation affecting public safety.

D. **Records Related to Inventory Tracking.** A Retail Marijuana Establishment must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is destroyed or sold to another Retail Marijuana Establishment or a consumer.

E. **Records Related to Transport.** A Retail Marijuana Establishment must maintain adequate records for the transport of all Retail Marijuana and Retail Marijuana Product. See Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

F. **Provision of Any Requested Record to the Division.** A Licensee must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

**Basis and Purpose – R 902**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XIII), C.R.S. A Retail Marijuana Establishment must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue.

**R 902 – Reporting and Transmittal of Taxes**

A. **Sales and Use Tax Returns Required.** All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

B. **Excise and Retail Marijuana Sales Tax Returns Required.** If an excise and an additional sales tax on Retail Marijuana are approved by voters in the 2013 general election, a Retail Marijuana Establishment shall submit any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. **Proof of Tax Remittance Required.** If an excise and an additional sales tax on Retail Marijuana are approved by voters in the 2013 general election, all state tax payments shall require proof of remittance with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provided to consumers.
Basis and Purpose – R 903

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), C.R.S. The Retail Code mandates that a Retail Marijuana Establishment must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Establishment’s refusal to cooperate or pay for the audit.

R 903 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit

1. When the State Licensing Authority deems it necessary, it may require a Retail Marijuana Establishment to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Retail Marijuana Establishment. However, the Division always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Retail Marijuana Establishment will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Retail Marijuana Establishment does not provide requested records to the Division;

2. The Division has reason to believe that the Retail Marijuana Establishment does not properly maintain its business records;

3. A Retail Marijuana Establishment has a prior violation related to recordkeeping or inventory control;

4. A Retail Marijuana Establishment has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division’s audit or enforcement staff.

C. Compliance Required. A Retail Marijuana Establishment must pay for and timely cooperate with the State Licensing Authority’s requirement that it undergo and audit in accordance with this rules.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.
Basis and Purpose – R 904

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX), and 12-43.4-309(11), C.R.S. The State Licensing Authority must be able to immediately access information regarding a Retail Marijuana Establishment’s managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

R 904 – Manager Change Must Be Reported

A. When Required. A Retail Marijuana Establishment shall provide the Division a written report within seven days after any change in manager occurs.

B. Licensee Must Maintain Record of Reported Change. A Retail Marijuana Establishment must also maintain a copy of this written report with its business records.

C. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.
Basis and Purpose – R 1001

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.3-202(3)(c)(III), C.R.S. The State Licensing Authority finds it essential to regulate and establish labeling and secure packaging requirements for Retail Marijuana, Retail Marijuana concentrates, and Retail Marijuana Product. The purpose of this rule, and the rules in this series, is to ensure that all Retail Marijuana and Retail Marijuana Product are sold and delivered to lawful consumers in packaging that is not easily opened by children. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors.

R 1001 – Labeling and Packaging Requirements: General Applicability

A. Ship Product Ready for Sale. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility may package smaller quantities of Retail Marijuana, Retail Marijuana concentrates, and Retail Marijuana Product in a Container prior to transport, provided the Containers are placed within a Shipping Container. See Rule R 309 – Marijuana Inventory Tracking Solution (MITS) and Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

B. Inventory Tracking Compliance.

1. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must package all Retail Marijuana, Retail Marijuana concentrates, and Retail Marijuana Product in accordance with all MITS rules and procedures.

2. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must place an RFID tag on every Shipping Container holding Retail Marijuana, Retail Marijuana concentrates, or Retail Marijuana Product prior to transport or transfer of possession to another Retail Marijuana Establishment. See Rule R 309 – Marijuana Inventory Tracking Solution (MITS) and Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

C. Packaging May Not Be Designed to Appeal to Children. A Retail Marijuana Establishment shall not place any content on a Container holding Retail Marijuana, Retail Marijuana concentrates, or a Retail Marijuana Product in a manner that specifically targets individuals under the age of 21, including but not limited to, cartoon characters or similar images.

D. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.

E. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.

F. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.

G. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to a Container, provided that none of the information required by these rules is completely obstructed.
Basis and Purpose – R 1002

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VII), 12-43.4-403(5), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility label each Shipping Container and Container of Retail Marijuana with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1002 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

A. Packaging of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana is placed within a sealed, tamper-evident Shipping Container that has no more than one pound of Retail Marijuana within it prior to transport or transfer of any Retail Marijuana to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding Retail Marijuana that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding Retail Marijuana:
   a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;
   b. The Harvest Batch Number(s) assigned to the Retail Marijuana;
   c. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana prior to its placement in the Shipping Container; and
   d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Statement When Tests are Performed. If a Retail Marijuana Testing Facility(-ies) conducted a test(s) on a Harvest Batch, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with the results of that test. The type of information that must be labeled shall be limited to the following:
   a. A cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from
every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last three months.

b. A statement that the product was tested for contaminants, provided that tests for the following contaminants were conducted: (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals.

3. Required Statement When Potency Tests Are Not Performed. If a Retail Marijuana Testing Facility(ies) did not test a Harvest Batch for potency, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with following the statement “The marijuana contained within this package has not been tested for potency, consume with caution.”

4. Required Statement When Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility(-ies) did not test a Harvest Batch for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with the following statement: “The marijuana contained within this package has not been tested for contaminants.”

C. Labeling of Retail Marijuana Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages Retail Marijuana within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1002.B, except that the net weight statement required by Rule R 1002.B.1.c shall be based upon the weight in the Container and not the Shipping Container.

Basis and Purpose – R 1003

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VII), 12-43.4-403(5), 12-43.4-404(1)(e)(II), 12-43.4-404(1)(e)(III), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container of Retail Marijuana concentrates with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana concentrates as this is a public health and safety concern.

R 1003 – Packaging and Labeling of Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

A. Packaging of Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana concentrates are placed within a sealed, tamper-evident Shipping Container that has no more than one pound of Retail Marijuana concentrate within it prior to transport or transfer to another Retail Marijuana Establishment.
B. Labeling Retail Marijuana Concentrate Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding a Retail Marijuana concentrate that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding a Retail Marijuana concentrate:

   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana concentrate was grown;

   b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana concentrate;

   c. The Production Batch Number assigned to the Retail Marijuana concentrate contained within the Shipping Container;

   d. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana concentrate prior to its placement in the Shipping Container;

   e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate contained; and

   f. A complete list of solvents and chemicals used to create the Retail Marijuana concentrate.

2. Required Statement When Contaminant Tests are Performed. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container in which a Retail Marijuana concentrate is placed that contains a statement asserting that the Retail Marijuana concentrate within was tested for contaminants and the results of those tests, if:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

   b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate for residual solvents, poisons or toxins.

3. Required Statement When Potency Testing is Performed. If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate within a Shipping Container for potency, then every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Shipping Container with a cannabinoid potency profile expressed as a percentage.

4. Required Statement When Contaminant Tests Are Not Performed. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Shipping Container that holds a Retail Marijuana concentrate with the statement:
The marijuana concentrate contained within this package has not been tested for contaminants. unless:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate for residual solvents, poisons or toxins.

5. Required Statement When Potency Testing Is Not Performed. If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana concentrate within a Shipping Container for potency, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure a label is affixed to the Shipping Container with the statement: “The marijuana concentrate contained within this package has not been tested for potency, consume with caution.”

C. Labeling of Retail Marijuana Concentrate Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages a Retail Marijuana concentrate within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1003.B, except that the net weight statement required by Rule R 1003.B.1.d shall be based upon the weight in the Container and not the Shipping Container.

Basis and Purpose – R 1004

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), and 12-43.4-202(3)(a)(VII), 12-43.4-404(6), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container holding a Retail Marijuana Product with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana Product as this is a public health and safety concern.

R 1004 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

A. Packaging of Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

1. Every Retail Marijuana Products Manufacturing Facility must ensure that each Retail Marijuana Product is individually packaged within a Container prior to transport or transfer to another Retail Marijuana Establishment.

2. Every Retail Marijuana Products Manufacturing Facility must ensure that each Container holding a Retail Marijuana Product is placed in a Shipping Container prior to transport or transfer to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Product Containers by a Retail Marijuana Products Manufacturing Facility. A Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Container
holding a Retail Marijuana Product that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. **Required Information (General).** Every Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Container holding a Retail Marijuana Product:

   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;

   b. The Production Batch Number(s) of Retail Marijuana concentrate(s) used in the production of the Retail Marijuana Product.

   c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product.

   d. The Production Batch Number(s) assigned to the Retail Marijuana Product.

   e. A statement about whether the Container is Child-Resistant.

   f. A clear set of usage instructions for non-Edible Retail Marijuana Product.

   g. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Product.

   h. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate that was used to produce the Retail Marijuana Product.

2. **Required Information (Edible Retail Marijuana Product).** Every Retail Marijuana Products Manufacturing Facility must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

   a. **Ingredient List.** A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which may include a list of any potential allergens contained within.

   b. **Statement Regarding Refrigeration.** If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.

   c. **Serving Size Statement.** “The standardized serving size for this product includes no more than ten milligrams of active THC.”

   d. **Statement of Expiration Date.** A product expiration date, for perishable Retail Marijuana Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

3. **Permissive Information (Edible Retail Marijuana Product).** Every Retail Marijuana Products Manufacturing Facility may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:
a. The Retail Marijuana Product’s compatibility with dietary restrictions; and

b. A nutritional fact panel that, if included, must be based on the number of THC servings within the Container.

4. **Required Statement When Contaminant Tests are Performed.** Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container holding a Retail Marijuana Product with a statement asserting that the Retail Marijuana Product was tested for contaminants and the results of those tests, if:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals;

   b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for residual solvents, poisons or toxins; and

   c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for microbials and molds, mildew and filth.

5. **Required Statement if Cannabinoid Potency is Tested.** If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Product within the Container for potency, then every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container with a potency profile expressed in milligrams and the number of THC servings within the Container.

6. **Required Statement When No Containment Testing is Completed.** Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container that holds a Retail Marijuana Product with the statement: “The marijuana product contained within this package has not been tested for contaminants.” unless:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals;

   b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for residual solvents, poisons or toxins; and

   c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for microbials and molds, mildew and filth.

7. **Required Statement When No Potency Testing Completed.** If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana Product within a Container for potency, then every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container with the a statement: “The marijuana product contained within this package has not been tested for potency, consume with caution.”
C. **Labeling of Retail Marijuana Product Shipping Containers by Retail Marijuana Products Manufacturing Facility.** Prior to transporting or transferring any Retail Marijuana Product to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must ensure that a label is affixed to a Shipping Container holding Retail Marijuana Product that includes all of the information required by this rule. A Retail Marijuana Products Manufacturing Facility must include the following information on every Shipping Container:

1. The number of Containers holding a Retail Marijuana Product within the Shipping Container; and

2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the Shipping Container.

**Basis and Purpose – R 1005**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container of Retail Marijuana includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1005 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

A. **Packaging of Retail Marijuana by a Retail Marijuana Store.** A Retail Marijuana Store must ensure that all Retail Marijuana is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. **Labeling of Retail Marijuana by a Retail Marijuana Store.** A Retail Marijuana Store must affix all of the information required by this rule to every Container in which Retail Marijuana is placed prior to sale to a consumer:

1. A Retail Marijuana Store must include the following information on every Container:

   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana was grown;

   b. The license number of the Retail Marijuana Store that sold the Retail Marijuana to the consumer;

   c. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with
this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

d. The Harvest Batch Number(s) assigned to the Retail Marijuana within the Container;

e. The date of sale to the consumer;

f. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana prior to its placement in the Container;

g. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;

h. The following warning statements:

   i. “There may be health risks associated with the consumption of this product.”

   ii. “This product is intended for use by adults 21 years and older. Keep out of the reach of children.”

   iii. “This product is unlawful outside the State of Colorado.”

   iv. “There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”

   v. “Do not drive or operate heavy machinery while using marijuana.”

   i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Statement When Tests are Performed. If a Retail Marijuana Testing Facility(-ies) conducted a test(s) on a Harvest Batch, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the results of that test. The type of information that must be labeled shall be limited to the following:

   a. A cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last three months.

   b. A statement that the product was tested for contaminants, provided that tests for the following contaminants were conducted: (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals.

3. Required Statement When Potency Tests Are Not Performed. If a Retail Marijuana Testing Facility(ies) did not test a Harvest Batch for potency, then a Retail Marijuana Store must ensure
that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with following the statement: “The marijuana contained within this package has not been tested for potency, consume with caution.”

4. Required Statement When Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility(-ies) did not test a Harvest Batch for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the following statement: “The marijuana contained within this package has not been tested for contaminants.”

Basis and Purpose – R 1006

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container holding a Retail Marijuana Product includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana Product as this is a public health and safety concern.

R 1006 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

A. Packaging of Retail Marijuana Product by a Retail Marijuana Store. A Retail Marijuana Store must ensure that each Retail Marijuana Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Product by a Retail Marijuana Store. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Container holding a Retail Marijuana Product that includes all of the information required by this rule prior to sale to a consumer:

1. Required Information (General). Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana Product:

   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;

   b. The Production Batch Number(s) assigned to the Retail Marijuana concentrate used to produce the Retail Marijuana Product;

   c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product;
d. The Production Batch Number(s) assigned to the Retail Marijuana Product;

e. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to
the consumer;

f. A statement about whether the Container is Child-Resistant;

g. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store
that sold the Retail Marijuana Product to the consumer. A Licensee may elect to have its
Identity Statement also serve as its Standardized Graphic Symbol for purposes of
complying with this rule. The Licensee shall maintain a record of its Identity Statement
and Standardized Graphic Symbol and make such information available to the State
Licensing Authority upon request;

h. The date of sale to the consumer;

i. The following warning statements:

   i. “There may be health risks associated with the consumption of this
   product.”

   ii. “This product is intended for use by adults 21 years and older. Keep out of
   the reach of children.”

   iii. “This product is unlawful outside the State of Colorado.”

   iv. “This product is infused with marijuana.”

   v. “This product was produced without regulatory oversight for health, safety,
or efficacy.”

   vi. “The intoxicating effects of this product may be delayed by two or more
hours.”

   vii. “There may be additional health risks associated with the consumption of
this product for women who are pregnant, breastfeeding, or planning on
becoming pregnant.”

   viii. “Do not drive a motor vehicle or operate heavy machinery while using
marijuana.”

j. The Universal Symbol, indicating that the Container holds marijuana, which must be no
smaller than ¼ of an inch by ¼ of an inch;

k. A clear set of instructions for proper usage for non-Edible Retail Marijuana Product;

l. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the
cultivation of the Retail Marijuana used to produce the Retail Marijuana Product; and
m. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate used in the produce of the Retail Marijuana Product.

2. **Required Information (Edible Retail Marijuana Product).** Every Retail Marijuana Store must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

   a. **Ingredient List.** A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which may include a list of any potential allergens contained within.

   b. **Statement Regarding Refrigeration.** If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.

   c. **Serving Size Statement.** “The standardized serving size for this product includes no more than ten milligrams of active THC.”

   d. **Statement of Expiration Date.** A product expiration date, for perishable Retail Marijuana Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

3. **Permissive Information (Edible Retail Marijuana Product).** Every Retail Marijuana Store may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:

   a. The Retail Marijuana Product’s compatibility with dietary restrictions; and

   b. A nutritional fact panel that, if included, must be based on the number of THC servings within the Container.

4. **Required Statement When Contaminant Tests are Performed.** Every Retail Marijuana Store must ensure that a label is affixed to each Container holding a Retail Marijuana Product with a statement asserting that the Retail Marijuana Product was tested for contaminants and the results of those tests, if:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals;

   b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for residual solvents, poisons or toxins; and

   c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for microbials and molds, mildew and filth.

5. **Required Statement if Cannabinoid Potency is Tested.** If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Product within the Container for potency, then every
Retail Marijuana Store must ensure that a label is affixed to the Container with a potency profile expressed milligrams and the number of THC servings within the Container.

6. **Required Statement When No Containment Testing is Completed.** Every Retail Marijuana Store must ensure that a label is affixed to each Container that holds a Retail Marijuana Product with the statement: \textit{“The marijuana product contained within this package has not been tested for contaminants.”} unless:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals;

   b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for residual solvents, poisons or toxins; and

   c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for microbials and molds, mildew and filth.

7. **Required Statement When No Potency Testing Completed.** If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana Product within a Container for potency, then every Retail Marijuana Store must ensure that a label is affixed to the Container with the statement: \textit{“The marijuana product contained within this package has not been tested for potency, consume with caution.”}

**Basis and Purpose – R 1007**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container holding a Retail Marijuana concentrate includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana concentrate as this is a public health and safety concern.

**R 1007 – Packaging and Labeling of Retail Marijuana Concentrates by a Retail Marijuana Store**

A. **Packaging of Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility.** A Retail Marijuana Store must ensure that all Retail Marijuana concentrates are placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.
B. Labeling of Retail Marijuana Concentrates by Retail Marijuana Stores. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Container holding Retail Marijuana concentrate that includes all of the information required by this rule prior to sale to a consumer:

1. Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana concentrate:
   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana concentrate within the Container was grown;
   b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana concentrate;
   c. The Production Batch Number assigned to the Retail Marijuana concentrate;
   d. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer;
   e. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana concentrate prior to its placement in the Container;
   f. The date of sale to the consumer;
   g. The following warning statements:
      i. “There may be health risks associated with the consumption of this product.”
      ii. “This product is intended for use by adults 21 years and older. Keep out of the reach of children.”
      iii. “This product is unlawful outside the State of Colorado.”
      iv. “This product contains marijuana.”
      v. “This product was produced without regulatory oversight for health, safety, or efficacy.”
      vi. “There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”
      vii. “Do not drive a motor vehicle or operate heavy machinery while using marijuana.”
   h. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;
i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate; and

j. A complete list of solvents and chemicals used to produce the Retail Marijuana Concentrate.

2. Every Retail Marijuana Store must ensure that a label is affixed to a Container in which a Retail Marijuana concentrate is placed that contains a statement asserting that the Retail Marijuana concentrate within was tested for contaminants and the results of those tests, if:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

   b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate for residual solvents, poisons or toxins.

3. Required Statement When Potency Testing is Performed. If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate within a Container for potency, then every Retail Marijuana Store must ensure that a label is affixed to the Shipping Container with a cannabinoid potency profile expressed as a percentage.

4. Required Statement When Contaminant Tests Are Not Performed. Every Retail Marijuana Store must ensure that a label is affixed to each Container that holds a Retail Marijuana concentrate with the statement: “The marijuana concentrate contained within this package has not been tested for contaminants.” unless:

   a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

   b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate for residual solvents, poisons or toxins.

5. Required Statement When Potency Testing Is Not Performed. If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana concentrate within a Shipping Container for potency, then every Retail Marijuana Store must ensure a label is affixed to the Container with the statement: “The marijuana concentrate contained within this package has not been tested for potency, consume with caution.”
R 1100 Series – Signage and Advertising

Basis and Purpose – R 1102

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(l), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Retail Marijuana Establishment is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a consumer.

R 1102 – Advertising General Requirement: No Deceptive, False or Misleading Statements

A Retail Marijuana Establishment shall not engage in Advertising that is deceptive, false, or misleading. A Retail Marijuana Establishment shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a consumer.

Basis and Purpose R 1103

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(l), and 12-43.4-901(4)(b), C.R.S. Authority also exists throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term “minor” as used in the Retail Code and these rules.

R 1103 – The Term “Minor” as Used in the Retail Code and These Rules

The term “minor” as used in the Retail Code and these rules means an individual under the age of 21.

Basis and Purpose – R 1104

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(l), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to television Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(l), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-
making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1104 –Advertising: Television

A. Television Defined. As used in this rule, the term “television” means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

B. Television Advertising. A Retail Marijuana Establishment shall not utilize television Advertising unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 21.

Basis and Purpose – R 1105

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to radio Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(l)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less
restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1105 –Advertising: Radio

A. **Radio Defined.** As used in this rule, the term “radio” means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.

B. **Radio Advertising.** A Retail Marijuana Establishment shall not engage in radio Advertising unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 21.

Basis and Purpose – R 1106

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising in print media.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(l)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony
and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1106 –Advertising: Print Media

A Retail Marijuana Establishment shall not engage in Advertising in a print publication unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the publication’s readership is reasonably expected to be under the age of 21.

Basis and Purpose – R 1107

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising on the internet.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising
restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1107 –Advertising: Internet

A Retail Marijuana Establishment shall not engage in Advertising via the internet unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the internet web site is reasonably expected to be under the age of 21. See also Rule R 1114 – Pop-Up Advertising.

Basis and Purpose – R 1108

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising in a medium designed to target out-of-state residents.

The operation of Retail Marijuana Establishments in Colorado is permitted solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Colorado is one of the first two states to have authorized the regulated growth and sale of Retail Marijuana, and it has done so in the context of a longstanding federal ban on such activities. The State Licensing Authority finds that it is essential to regulate Retail Marijuana in the state of Colorado in a manner that does not negatively impact the ability of other states or the federal government to enforce their drug laws. The State Licensing Authority finds that the below restrictions on Advertising as defined in these Retail Marijuana rules are critical to prevent the diversion of Retail Marijuana outside of the state. The State Licensing Authority will continue to monitor and evaluate the best way to implement the state constitutional directive to establish appropriate Advertising restrictions for this emerging industry.


A Retail Marijuana Establishment shall not engage in Advertising that specifically targets Persons located outside the state of Colorado.
Basis and Purpose – R 1109

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(l), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

R 1109 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Retail Marijuana Establishment may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – R 1110

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(l), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

R 1110– Signage and Advertising: No Safety Claims Because Tested by a Retail Marijuana Testing Facility

A Retail Marijuana Establishment may advertise that its products have been tested by a Retail Marijuana Testing Facility, but shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Retail Marijuana Testing Facility.

Basis and Purpose – R 1111

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(l), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(l), (1)(b)(II), 2(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(II)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(l), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-
making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1111– Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Retail Marijuana Establishment shall comply with any applicable local ordinances regulating signs and Advertising.

B. Outdoor Advertising Generally Prohibited. Except as otherwise provided in this rule, it shall be unlawful for any Retail Marijuana Establishment to engage in Advertising that is visible to members of the public from any street, sidewalk, park or other public place, including Advertising utilizing any of the following media: any billboard or other outdoor general Advertising device; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner.

C. Exception. The prohibitions set forth in this rule shall not apply to any fixed sign that is located on the same zone lot as a Retail Marijuana Establishment and that exists solely for the purpose of identifying the location of the Retail Marijuana Establishment and otherwise complies with any applicable local ordinances.

Basis and Purpose – R 1112

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include
rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1112– Signage and Advertising: No Content That Targets Minors

A Retail Marijuana Establishment shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

Basis and Purpose – R 1113

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I)(F), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. Art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(l)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S.
The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The State Licensing Authority finds that the restrictions contained in this rule are necessary to prevent Advertising and signage that has a high likelihood of reaching minors. See §12-43.4-202(3)(c), C.R.S. The language in this rule was taken from the list of discretionary rules articulated by the General Assembly in House Bill 13-1317. See §12-43.4-202(3)(c)(1)(F), C.R.S. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1113 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Retail Marijuana Establishment shall not engage in Advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 year of age or older and includes a permanent and easy opt-out feature.

Basis and Purpose – R 1114

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(1)(C), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(l)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. See §12-43.4-202(3)(c)(l), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The State Licensing Authority finds that the restrictions contained in this rule are necessary to prevent Advertising and signage that has a high likelihood of reaching minors. The language in this rule was taken from the list of discretionary rules articulated by the General Assembly in House Bill 13-1317. See §12-43.4-202(3)(c)(1)(C), C.R.S. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising,
marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

**R 1114 – Pop-Up Advertising**

A Retail Marijuana Establishment shall not utilize unsolicited pop-up Advertising on the internet.

**Basis and Purpose – R 1115**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII, §16(l)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. See §§12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors’ decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. This rule in particular received extensive commentary from the industry. It has been modified and clarified in response to that commentary. The written and oral testimony and commentary included a variety of recommended standards for determining when Advertising has a high likelihood of reaching minors. After reviewing the rulemaking record, the State Licensing Authority has determined that it is appropriate to utilize the current voluntary standard in the alcohol industry that Advertising that is likely to reach an audience comprise of more than 30 percent individuals under the age of 21 should be prohibited, as such advertising has a high likelihood of reaching minors. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply only to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the appropriate way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate Advertising and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.
R 1115 – Advertising: Event Sponsorship

A Retail Marijuana Establishment may sponsor a charitable, sports, or similar event, but a Retail Marijuana Establishment shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be under the age of 21.
R 1200 Series – Enforcement

Basis and Purpose – R 1201

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(I), and 12-43.4-202(3)(b)(III), and sections 12-43.4-601, 12-43.4-701, 16-2.5-101, 16-2.5-121, and 16-2.5-124.5, C.R.S. The purpose of this rule is to allow for officers and employees of the Division to investigate all aspects of a Retail Marijuana Establishment to ensure the fair, impartial, stringent, and comprehensive administration of the Retail Code and rules promulgated pursuant to it.

R 1201 – Duties of Officers and Employees of the State Licensing Authority

A. Duties of Director

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize investigators and employees of the Division to perform tasks delegated from the State Licensing Authority.

B. Duties of Division Investigators. The State Licensing Authority, the Department’s Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Retail Code and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Retail Code, any rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Retail Marijuana in this state, or any criminal law of this state, if, during an officer’s exercise of powers or performance of duties pursuant to the Retail Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Retail Marijuana and Retail Marijuana-Infused Product;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer’s request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any Licensed Premises where Retail Marijuana or Retail Marijuana Product are grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Retail Marijuana or Retail Marijuana Product;

6. Require Applicants to submit complete and current applications and fees and other information the
Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;

7. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Licensees and Applicants for Retail Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

8. Exercise any other power or duty authorized by law.

Basis and Purpose – R 1202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), and 12-43.4-202(3)(b)(III), and section 12-43.4-602, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the preservation of evidence, the handling of inventory under investigation and the surrender of Retail Marijuana and Retail Marijuana Product.

R 1202 – Requirement for Inspections and Investigations, Searches, Administrative Holds, and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees

1. Applicants and Licensees must cooperate with employees and investigators of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Retail Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct or impede the State Licensing Authority or employee or investigator of the Division from exercising their duties pursuant to the provisions of the Retail Code and all rules promulgated pursuant to it. This would include, but is not limited to:

   a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term “threatening force” includes the threat of bodily harm to such individual or to a member of his or her family;

   b. Denying employees or investigators of the Division access to a Licensed Premises during business hours or times of apparent activity;

   c. Providing false or misleading statements;

   d. Providing false or misleading documents and records;

   e. Failing to timely produce requested books and records required to be maintained by the Licensee; or
f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

B. **Administrative Hold**

1. To prevent destruction of evidence, diversion or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Retail Marijuana and Retail Marijuana Product pursuant to the following procedure:

   a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Retail Marijuana and Retail Marijuana Product constitute evidence of acts in violation of the Retail Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Retail Marijuana and Retail Marijuana Product. The notice of administrative hold shall provide a documented description of the Retail Marijuana or Retail Marijuana Product to be subject to the administrative hold.

   b. Following the issuance of a notice of administrative hold, the Division will identify the Retail Marijuana and Retail Marijuana Product subject to the administrative hold in MITS. The Licensee shall continue to comply with all tracking requirements. See Rule R 309 Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS).

   c. The Licensee shall completely and physically segregate the Retail Marijuana and Retail Marijuana Product subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the Licensee is prohibited from selling, giving away, transferring, transporting, or destroying the Retail Marijuana and Retail Marijuana Product subject to the administrative hold.

   d. Nothing herein shall prevent a Licensee from the continued cultivation or harvesting of the Retail Marijuana subject to the administrative hold. All Retail Marijuana and Retail Marijuana Product subject to an administrative hold must be put into separate Harvest Batches.

   e. Following an investigation, the Division may lift the administrative hold, order the continuation of the administrative hold or seek a Final Agency order for the destruction of the marijuana.

C. **Voluntary Surrender of Retail Marijuana and Retail Marijuana Product**

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to waive a right to a hearing and any associated rights, and voluntarily surrender any Retail Marijuana and Retail Marijuana Product to the Division. Such voluntary surrender may require destruction of any Retail Marijuana and Retail Marijuana Product in the presence of a Division investigator.
2. The individual signing affidavit of voluntary surrender on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose – R 1203

The statutory authority for this rule is found at subsections 12-43.4-202(1)(b)(I) and 12-43.4-602, C.R.S. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy Retail Marijuana or Retail Marijuana Product. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order.

R 1203 – Disposition of Unauthorized Retail Marijuana

A. After a Final Agency Order Orders the Destruction of Marijuana. If the State Licensing Authority issues a Final Agency Order pursuant to section 12-43.4-602, C.R.S., that orders the destruction of some or all of the Licensee’s unauthorized Retail Marijuana or unauthorized Retail Marijuana Product, the Licensee may:

1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Retail Marijuana and unauthorized Retail Marijuana Product that are described in the Final Agency Order. If the Licensee chooses to voluntarily surrender its plants and Product:
   a. The Licensee must complete and return the Division’s voluntary surrender form within 15 calendar days of the date of the Final Agency Order.
   b. The individual signing the affidavit of voluntary surrender on behalf of the Licensee must affirm that the individual has authority to represent and bind the Licensee.

2. Seek A Stay. File a petition for a stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.

3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Retail Marijuana as set forth in section A(1)(a) of this rule; or (2) properly seek a stay of the Final Agency Order as set forth in section A(2) of this rule, the Division will enter upon the Licensed Premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the Final Agency Order. The Division will only take such action if a district attorney for the judicial district in which the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product are located has not notified the Division that the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product constitute evidence in a criminal proceeding and that it should not be destroyed.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Retail Marijuana and Unauthorized Retail Marijuana Product. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Retail Marijuana or unauthorized Retail Marijuana Product seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 12-43.3-602(5), C.R.S., and this rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product the Licensee shall not
sell, destroy, or otherwise let any unauthorized Retail Marijuana or unauthorized Retail Marijuana Product that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Retail Marijuana or unauthorized Retail Marijuana Product that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product.

4. If a district attorney notifies the Division that some or all of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product is involved in an investigation, the Division shall not destroy the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product until approved by the district attorney.
R 1300 Series – Discipline

Basis and Purpose – R 1301

The statutory authority for this rule is found at sections 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated.

R 1301 – Disciplinary Process: Non-Summary Suspensions

A. How a Disciplinary Action is Initiated
   1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Retail Code, any rule promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Case (administrative citation) as to why its license should not be suspended or revoked.
   2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule R 1304 – Administrative Hearings.

Basis and Purpose – R 1302

The statutory authority for this rule is found at sections 24-4-104(4)(a), 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately revoke a license prior to a hearing. Such an occasion will occur when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or has committed an infraction of such magnitude that it is imperative its license be revoked to protect the public safety and welfare. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions.

R 1302 – Disciplinary Process: Summary Suspensions

A. How a Summary Suspension Action is Initiated
   1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the
public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority’s basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation should the charges contained in the notice be sustained following a hearing.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued.

B. Summary Suspension Hearings. Summary suspension hearings will be expedited to the extent practicable and will be conducted in accordance with Rule R 1304 – Administrative Hearings.

Basis and Purpose – R 1303

The statutory authority for this rule is found at sections 24-4-105, 24-4-104(4)(a), 12.43.4-601, and 12-43.4-602 and subsections 12-43.4-202(2)(b), and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity). In addition, the rule clarifies what activity is always prohibited during such suspension.

R 1303 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be at least 17 inches in length and 14 inches in width containing lettering not less 1/2” in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:
NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this rule shall be deemed a violation.

B. Prohibited Activity During Active Suspension

1. Retail Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the selling, serving, giving away, distribution, transfer, or transport of any product, including but not limited to, Retail Marijuana or Retail Marijuana Product on the Licensed Premises, nor allow customers to enter the Licensed Premises. However, Retail Marijuana and Retail Marijuana Product shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in sections 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

2. Cultivation Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain its on hand inventory and otherwise care for its Retail Marijuana and plant inventories. However, marijuana shall not be sold or otherwise removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

3. Manufacturing Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not manufacture any Retail Marijuana Product or Retail Marijuana concentrates during a period of active license suspension nor permit the selling, distribution, transfer, or transport of Retail Marijuana or Retail Marijuana Product on or from the Licensed Premises. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain Retail Marijuana and Retail Marijuana Product on the Licensed Premises. However, Retail Marijuana Retail Marijuana Product shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

4. Retail Marijuana Testing Facility Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not receive Samples for testing, perform any test on Samples, transfer, or transport Retail Marijuana or Retail Marijuana Product on or from the Licensed Premises. Unless otherwise ordered by the State Licensing Authority, During any period of active license suspension the Licensee
Authority, during any period of active license suspension the Licensee must maintain the security and integrity of all previously received Samples on the Licensed Premises. However, Retail Marijuana and Retail Marijuana Product shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

Basis and Purpose – R 1304

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I) and section 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the scope of the administrative hearings rules, and other general hearings issues.

R 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department of Revenue, Hearings Division. Unless the hearing officer orders a change of location based on good cause, as described in this Rule, hearings generally will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Under unusual circumstances where justice, judicial economy and convenience of the parties would be served, hearings may be held in other locations in the state of Colorado.

2. Scope of Hearing Rules. The Administrative Hearings rules shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant’s or Respondent’s expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to:

   Marijuana Enforcement Division
   Attn: Hearing Request
   455 Sherman Street, Suite 390
   Denver, CO 80203
The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request will not be considered.

2. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

3. A Denied Applicant or a Respondent may waive his or her right to a hearing by submitting a written statement to the State Licensing Authority to that effect before the hearing.

C. When a Responsive Pleading is Required

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any administrative notice or Order to Show Cause. If a Respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. In connection with any request for a hearing, a Denied Applicant shall provide a written response to the Notice of Denial.

D. Hearing Notices

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

   a. Summary suspension hearings will be scheduled and held promptly.

   b. Continuances may be granted for good cause, as described in this rule, shown. A motion for a continuance must be timely.

   c. For purposes of this rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case;
unavailability of a necessary witness, if the witness’ testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the Hearing Officer’s own motion. If a prehearing conference is held and a prehearing order is issued by the Hearing Officer, the prehearing order will control the course of the proceedings. Such prehearing conferences may occur by telephone.

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless both parties stipulate to a continuance and the hearing officer grants the continuation.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the Hearing Officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   a. **Witnesses.** The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   b. **Experts.** The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert’s resume or report containing the required information.

   c. **Exhibits.** A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

   d. **Stipulations.** A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.
F. **Conduct of Hearings**

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed.

3. The hearing officer may question any witness.

4. **Court Rules**
   
a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word “court,” “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean a Hearing Officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

   b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word “court” appears in a rule of civil procedure, that word shall be construed to mean a Hearing Officer.

5. **Exhibits**
   
a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

6. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. **Post Hearing.** After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule R 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. **No Ex Parte Communication.** Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to
the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. **Marijuana Enforcement Division representation.** The Division shall be represented by the Colorado Department of Law.

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**Basis and Purpose – R 1305**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), and 12-43.4-202(3)(a)(I), and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

**R 1305 – Administrative Subpoenas**

A. **Informal Exchange of Documents Encouraged.** Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. **Hearing Officer May Issue Subpoenas**

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be delivered in person or by mail to the office of the Department of Revenue – Hearings Division, 1881 Pierce St. #106, Lakewood, CO 80214. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer must be made on a “Request for Subpoena” form authorized and provided by the Hearings Division. A hearing officer shall not issue a subpoena unless the request contains the following information:

   a. Name of Denied Applicant or Respondent;

   b. License or application number;

   c. Case number;

   d. Date of hearing;

   e. Location of hearing, or telephone number for telephone check-in;

   f. Time of hearing;
g. Name of witness to be subpoenaed; and

h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Hearing Officer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

**Basis and Purpose – R 1306**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), and 12-43.4-202(3)(a)(I), and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer’s Initial Decision pursuant to the Administrative Procedure Act.

**R 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision**

A. **Exception(s) Process.** Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the State Licensing Authority is: State Licensing Authority, 1375 Sherman Street, 4th Floor, Denver, CO 80203.
B. **Designation of Record.** Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. **Deadline Modifications.** The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. **No Oral Argument Allowed.** Requests for oral argument will not be considered.

**Basis and Purpose – R 1307**

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-104(6)(f), and 12-43.4-601(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Retail Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority considered the type of violation and the threat of harm to the public versus purely administrative harm when setting the penalty structure. Based upon public testimony and a written commentary, Rule R 1307.A was amended to include additional license violations affecting public safety and Rule R 1307.C.1 was added.

**R 1307 – Penalties**

A. **Penalty Schedule.** The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. **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, making misstatements or omissions in MITS, failing to continuously escort a visitor in a Limited Access Area, violations related to co-located Medical Marijuana Centers and Retail Marijuana Businesses, failure to maintain books and records to fully account for all transactions of the business, Advertising violations directly targeting minors, 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 of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
2. **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 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 of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. **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 State 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 of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

**B. Other Factors**

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure 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.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 12-43.4-601, C.R.S., in lieu of having its license suspended for all or part of the suspension.

**C. Mitigating and Aggravating Factors.** The State 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. Circumstances surrounding the violation, which may include, but are not limited to:
a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

b. The dress or appearance of an underage operative used during an underage compliance check (e.g., the operative was wearing a high school letter jacket).

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

9. Participation in state-approved educational programs related to the operation of a Retail Marijuana Establishment.
R 1400 Series – Division, Local Jurisdiction, and Law Enforcement Procedures

Basis and Purpose – R 1401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), 12-43.4-202(3)(b)(III), and 12-43.3-301(1), C.R.S. This rule gives general instructions regarding Retail Marijuana Establishment administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement’s authority to investigate and take any necessary action with regard to Retail Marijuana Establishments remains unaffected by the Retail Code or any rules promulgated pursuant to it.

R 1401 – Instructions for Local Jurisdictions and Law Enforcement Officers

A. Division Protocol for Retail Marijuana Establishments

1. The Division shall forward a copy of all new Retail Marijuana Establishment applications to the relevant local jurisdiction.

2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Establishment application to the relevant local jurisdiction.

3. The Division shall notify relevant local jurisdictions when an application for a Retail Marijuana Establishment is either approved or denied. This includes new business applications, renewal business applications, change of location applications, transfer of ownership applications, premises modification applications, and off-premises storage permit applications.

4. Any license issued or renewed by the Division for Retail Marijuana Establishments shall be conditioned upon relevant local jurisdiction approval of the application. If a local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. Local Jurisdiction Protocol for Retail Marijuana Establishments

1. As soon as practicable, local jurisdictions that have prohibited the operation of Retail Marijuana Establishments shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a local jurisdiction will authorize the operation of Retail Marijuana Establishments, it shall inform the Division of the local point-of-contact on Retail Marijuana regulatory matters. The local jurisdiction shall include, at minimum, the name of the division or branch of local government, the mailing address of that entity, and telephone number.

3. Local jurisdictions may impose separate local licensing or approval requirements related to the time, place, manner, and number of Retail Marijuana Establishments, and shall otherwise determine if an application meets those local requirements.
4. The relevant local jurisdiction shall notify the Division, in writing, of whether an application for a Retail Marijuana Establishment complies with local restrictions and requirements, and whether the application is approved or denied based on that review. If a local jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Jurisdiction Inspections. The relevant local jurisdictions and their investigators may inspect Retail Marijuana Establishments during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

D. Local Jurisdiction Authority. Nothing in these rules shall be construed to limit the authority of local jurisdictions as established by the Retail Code or otherwise by law.

E. Local Law Enforcement's Authority Not Impaired by Retail Code. Nothing in the Retail Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Retail Marijuana Establishment, and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee or employee of an Applicant or Licensee during an investigation of unlawful activity related to Retail Marijuana or a Retail Marijuana Establishment. This includes, but is not limited to, inspecting and investigating Retail Marijuana Establishments to ensure they are in compliance with all local jurisdiction regulations related to time, place, manner, and number.
The medical and recreational marijuana industry in Colorado encompasses a wide array of businesses including grow operations, product manufacturers, dispensaries and more. Article XVIII, Section 16 of the Colorado Constitution defines a “Marijuana Establishment” as a marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or a retail marijuana store. All of these businesses generate wastes that must be handled appropriately to avoid endangering public health and the environment. These wastes may be regulated as solid or hazardous wastes and may include marijuana plant material, marijuana-infused products, pesticides, fertilizers, solvents, wastewater, mercury-containing lighting and other wastes. The purpose of this compliance bulletin is to provide guidance on how to handle and dispose of these wastes in accordance with the relevant state regulations. Do not rely solely on this guidance to ensure compliance with all relevant regulations as your city or county may have additional requirements.

How do I properly dispose of marijuana plant material and marijuana-infused products?

A marijuana establishment shall dispose of marijuana and marijuana-infused product waste in a secure waste receptacle in possession and control of the marijuana establishment. The plants and products must be rendered “unusable and unrecognizable.” This must be accomplished by grinding and incorporating the marijuana waste with any of the non-consumable, solid wastes listed below and the resulting mixture must be at least 50 percent non-marijuana waste. Such wastes include:

- Paper waste, plastic waste, cardboard waste, food waste, grease or other compostable oil waste, bokashi or other compost activators and soil. (Other wastes may be approved by the Department of Revenue's Marijuana Enforcement Division to render the marijuana and marijuana-infused product waste unusable and unrecognizable as marijuana.)

After the waste is made unusable and unrecognizable, the rendered waste shall be:

- Disposed of at a solid waste site and disposal facility that has a certificate of designation from the local governing body;
- Deposited at a compost facility that has a certificate of designation from the Department of Public Health and Environment; or
- Composted on-site at a facility owned by the generator of the waste and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) from the Colorado Department of Public Health and Environment.

Note that the waste must be unusable and unrecognizable prior to leaving the licensed premises of any marijuana establishment. Marijuana wastes are additionally subject to the following inventory tracking requirements:

- Post-harvest marijuana waste materials must be identified, weighed and tracked while on the licensed premises until disposed of in a manner as outlined above. Marijuana waste must be weighed and inventoried before leaving any marijuana establishment using a scale certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. (See Rule R 309 of the Retail Marijuana Code - Retail Marijuana Establishments: Inventory Tracking Solution.)
- A licensee is required to maintain accurate and comprehensive records regarding waste material that account for, reconcile and evidence all waste activity related to the disposal of marijuana. (See Rule R 901 - Business Records Required.)
A licensee is required to maintain accurate and comprehensive records regarding any marijuana waste material produced through the trimming or pruning of a marijuana plant prior to harvest. Records must include weighing and documenting all wastes. (See Rule R 307 – Inventory Tracking Requirements)

How do I properly dispose of potentially hazardous marijuana-related wastes?

Hazardous waste must be disposed of in a manner consistent with federal, state and local laws, regulations, rules or other requirements. This waste category may include, but is not limited to, mercury-containing lighting, many types of pesticides or other chemicals used in the cultivation process, certain solvents or other chemicals used in the production of marijuana concentrate, and marijuana soaked in a flammable solvent for purposes of producing a marijuana concentrate. You must determine which regulations apply to the waste before you dispose of it, including making a hazardous waste determination. Consult with the Hazardous Materials and Waste Management Division’s Customer Technical Assistance line at (303) 692-3320 if you are unsure of whether or not you are dealing with a hazardous waste. Hazardous wastes must be disposed of properly by a registered hazardous waste transporter shipping to a hazardous waste treatment, storage and disposal facility (TSDF).

If you generate wastes that are regulated hazardous wastes, you must notify the Colorado Department of Public Health and Environment that you are generating hazardous wastes and obtain an EPA identification number before your wastes can be accepted for disposal by a TSDF.

How do I properly dispose of other liquid wastes that are not hazardous wastes?

Non-hazardous liquid waste may be transported to a wastewater treatment plant by a licensed wastewater hauler, or via sanitary sewer pipes, so long as the treatment plant knows about the waste and deems it acceptable. Alternatively, liquid waste may be solidified by mixing with soil or other absorbent material in order to be sent to a landfill. Contact the receiving landfill to confirm the resulting mixture can meet its waste acceptance criteria prior to disposal at the landfill. Depending on the type and quantity of wastewater generated, other options may be available. Call our Customer Technical Assistance line at (303) 692-3320 for further options.

How do I properly dispose of lighting wastes?

Most lighting used for growing marijuana contains mercury. Although this waste is a regulated hazardous waste when disposed, it is allowed to be managed as a universal waste with an alternate set of management standards. If you decide to manage your lighting wastes as universal wastes, you should identify a recycler that is permitted to accept these wastes for processing or disposal. Specific guidance for mercury-containing lighting is available on our website. Please find the appropriate link on page three of this bulletin.

I do not have a marijuana-related business but I grow marijuana in my home for personal use. What do I do with marijuana-related waste from my home?

“Household hazardous waste” is a special category of waste that includes, but is not limited to, the pesticides, herbicides, fertilizers, solvents, mercury-containing lights and other materials related to marijuana cultivation. These types of wastes, as long as they are coming from a home in quantities commonly generated by households, are excluded from regulation as hazardous waste. This kind of household hazardous waste may be disposed of at household hazardous waste collection facilities or during household hazardous waste collection events. Contact your county health department for the options available in your area. For disposal of marijuana plant material and marijuana-infused products, please follow the guidance above to render it unusable and unrecognizable and then dispose of it in your household trash or at your nearest landfill. Check with your nearest landfill and/or waste hauler to be sure they can take such material. If they cannot, the waste will need to be taken to a location that can accept it or it may be composted at the residence. Other options may be available in your area. Please contact your county health department to determine if other options are available.

If you are generating quantities of household hazardous waste that exceed the quantities commonly generated by a household and appear to be associated with commercial activities conducted in the home, then this is no longer household hazardous waste and needs to be disposed of in accordance with...
the guidance above regarding hazardous waste. Selling marijuana and/or marijuana-infused products is a commercial activity and any marijuana-related waste generated from that activity is not subject to the household hazardous waste exclusion.

Check with your local jurisdiction to determine how many plants may be grown per person or per household. If the marijuana-related waste being generated from the home is clearly in excess of the needs for the allowable number of plants, then the home may be generating hazardous waste that does not qualify for the household hazardous waste exclusion.

Prior to beginning any marijuana-related operations, consider the following:

- Is there a plan in place for how to deal with solid and hazardous wastes generated during operations?
- What quantities of waste will be generated and what are the various waste streams?
- If the operation is generating hazardous waste, have you determined the appropriate generator category and what rules may apply?
  - Conditionally exempt small quantity generator (CESQG)
  - Small quantity generator (SQG)
  - Large quantity generator (LQG)
- Is there a storage plan for the waste addressing storage methods, locations and length of time the waste may be stored?
- What readily-available material could be used to render marijuana plant material and marijuana-infused products unusable and unrecognizable?
- Where will the waste be sent and how will it be transported?
- Will any composting of marijuana-related waste occur on-site?
- What licensing and permitting requirements will apply to this operation?

For more information on marijuana and marijuana-related waste disposal, please see the links below:

- Solid Waste Regulations: [www.colorado.gov/pacific/cdphe/solid-waste-regulations](http://www.colorado.gov/pacific/cdphe/solid-waste-regulations)
- Hazardous Waste Management and Guidance: [www.colorado.gov/pacific/cdphe/hwguidance](http://www.colorado.gov/pacific/cdphe/hwguidance)
- Marijuana Enforcement by the Colorado Department of Revenue: [www.colorado.gov/pacific/enforcement/marijuanaenforcement](http://www.colorado.gov/pacific/enforcement/marijuanaenforcement)
- Mercury-Containing Lighting: [www.colorado.gov/pacific/cdphe/mercury](http://www.colorado.gov/pacific/cdphe/mercury)
- Universal Wastes (includes pesticides, aerosols, batteries, mercury-containing lighting, etc.): [www.colorado.gov/pacific/sites/default/files/HM_hw-universal-waste-rule_0.pdf](http://www.colorado.gov/pacific/sites/default/files/HM_hw-universal-waste-rule_0.pdf)

The information in this bulletin comes from the Colorado Department of Revenue Marijuana Enforcement Division’s Retail Marijuana Code, 1 CCR 212-2, and the Colorado Department of Public Health and Environment’s Solid Waste Regulations, 6 CCR 1007-2.

If you have additional questions, please contact us at:

Colorado Department of Public Health and Environment Hazardous Materials and Waste Management Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Customer Technical Assistance
303-692-3320
[www.colorado.gov/cdphe/hm](http://www.colorado.gov/cdphe/hm)
comments.hmwmd@state.co.us
WAC 314-55-083

What are the security requirements for a marijuana licensee?

The security requirements for a marijuana licensee are as follows:

1) Display of identification badge. All licensees and employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises and engaged in the transportation of marijuana. The identification badge must list the licensees' trade name and include the person's full and legal name and photograph. All licensees and employees must have their state issued identification available to verify the information on their badge is correct.

   (a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

   (b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

   (c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request.

   (d) Employees, visitors, and other persons at a marijuana licensed premises, including persons engaged in the transportation of marijuana, must provide identification to a WSLCB enforcement officer upon request.

2) Alarm systems. At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold up alarm may also be utilized.

3) Surveillance system. At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility must be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system must be secured on the licensed premises in a locked box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

   (a) Controlled areas include:

      (i) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

      (ii) All point of sale (POS) area

      (iii) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low light condition.

      (iv) Any room or area storing a surveillance system storage device.
(b) All marijuana, marijuana concentrates, or marijuana-infused products that are intended to be removed or transported between two licensed premises shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the WSLCB or designees.

(4) Traceability: To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the WSLCB. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the WSLCB:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);
(b) When plants are to be partially or fully harvested or destroyed;
(c) When a lot or batch of marijuana, marijuana extract, marijuana concentrates, marijuana-infused product, or marijuana waste is to be destroyed;
(d) When usable marijuana, marijuana concentrates, or marijuana-infused products are transported;
(e) Any theft of usable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;
(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;
(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before marijuana plants, seeds, plant tissue cultures, or lots of marijuana are transported from a producer to another producer or to a processor;
(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, marijuana concentrates, or marijuana-infused products are transported from a processor to another processor or to a retailer;
(i) All marijuana plants eight or more inches in height or width must be physically tagged and tracked individually;
(j) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana concentrates, marijuana-infused products, and marijuana waste;
(k) All marijuana, usable marijuana, marijuana-infused products, marijuana concentrates, seeds, plant tissue, clone lots, and marijuana waste must be physically tagged with the sixteen digit identification number generated by the traceability system and tracked;
(l) All point of sale records;
(m) Marijuana excise tax records;
(n) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;
(o) All free samples provided to another licensee for purposes of negotiating a sale;
(p) All samples used for testing for quality by the producer or processor;
(q) Samples containing usable marijuana provided to retailers;
(r) Samples provided to the WSLCB or their designee for quality assurance compliance checks; and
(s) Other information specified by the board.

(5) Start-up inventory for marijuana producers. Within fifteen days of starting production operations a producer must have all nonflowering marijuana plants, clones, seeds, and plant tissue cultures physically on the licensed premises. The producer must, within twenty-four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No
flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

11 Appendix D: Colorado Law Enforcement Report

NOTE: We have only included the executive summary of the report. For the full 176-page report, please go to: http://www.rmhidta.org/default.aspx?MenuItemID/687/MenuGroup/RMHIDTAHome.htm

Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) is tracking the impact of marijuana legalization in the state of Colorado. This report will utilize, whenever possible, a comparison of three different eras in Colorado’s legalization history:

- 2006 – 2008: Medical marijuana pre-commercialization era
- 2009 – Present: Medical marijuana commercialization and expansion era
- 2013 – Present: Recreational marijuana era

Rocky Mountain HIDTA will collect and report comparative data in a variety of areas, including but not limited to:

- Impaired driving and fatalities
- Youth marijuana use
- Adult marijuana use
- Emergency room admissions
- Marijuana-related exposure cases
- Diversion of Colorado marijuana

This is the fifth annual report on the impact of legalized marijuana in Colorado. The report includes ten sections, each providing information on the impact of marijuana legalization.
The Legalization of Marijuana in Colorado: The Impact

Volume 5
October 2017

Rocky Mountain High Intensity Drug Trafficking Area
www.rmhidta.org
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Executive Summary

Purpose

Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) is tracking the impact of marijuana legalization in the state of Colorado. This report will utilize, whenever possible, a comparison of three different eras in Colorado’s legalization history:

- **2006 – 2008:** Medical marijuana pre-commercialization era
- **2009 – Present:** Medical marijuana commercialization and expansion era
- **2013 – Present:** Recreational marijuana era

Rocky Mountain HIDTA will collect and report comparative data in a variety of areas, including but not limited to:

- Impaired driving and fatalities
- Youth marijuana use
- Adult marijuana use
- Emergency room admissions
- Marijuana-related exposure cases
- Diversion of Colorado marijuana

This is the fifth annual report on the impact of legalized marijuana in Colorado. It is divided into ten sections, each providing information on the impact of marijuana legalization. The sections are as follows:

Section 1 – Impaired Driving and Fatalities:

- Marijuana-related traffic deaths when a driver was positive for marijuana more than doubled from 55 deaths in 2013 to 125 deaths in 2016.

- Marijuana-related traffic deaths increased 66 percent in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.
  - During the same time period, all traffic deaths increased 16 percent.
In 2009, Colorado marijuana-related traffic deaths involving drivers testing positive for marijuana represented 9 percent of all traffic deaths. By 2016, that number has more than doubled to 21 percent.

Section 2 – Youth Marijuana Use:

- Youth past month marijuana use increased 12 percent in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average prior to legalization (2010-2012).


- Colorado youth past month marijuana use for 2014/2015 was 55 percent higher than the national average compared to 39 percent higher in 2011/2012.

Section 3 – Adult Marijuana Use:

- College age past month marijuana use increased 16 percent in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average prior to legalization (2010-2012).


- Colorado college age past month marijuana use for 2014/2015 was 61 percent higher than the national average compared to 42 percent higher in 2011/2012.

- Adult past-month marijuana use increased 71 percent in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average prior to legalization (2010-2012).


- Colorado adult past month marijuana use for 2014/2015 was 124 percent higher than the national average compared to 51 percent higher in 2011/2012.
Section 4 – Emergency Department and Hospital Marijuana-Related Admissions:

- The yearly rate of emergency department visits related to marijuana increased 35 percent after the legalization of recreational marijuana (2011-2012 vs. 2013-2015).

- Number of hospitalizations related to marijuana:
  - 2011 – 6,305
  - 2012 – 6,715
  - 2013 – 8,272
  - 2014 – 11,439
  - Jan-Sept 2015 – 10,901

- The yearly number of marijuana-related hospitalizations increased 72 percent after the legalization of recreational marijuana (2009-2012 vs. 2013-2015).

Section 5 – Marijuana-Related Exposure:

- Marijuana-related exposures increased 139 percent in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.

- Marijuana-Only exposures more than doubled (increased 210 percent) in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.

Section 6 – Treatment:


- Over the last ten years, the top four drugs involved in treatment admissions were alcohol (average 13,551), marijuana (average 6,712), methamphetamine (average 5,578), and heroin (average 3,024).
Section 7 – Diversion of Colorado Marijuana:

- In 2016, RMHIDTA Colorado drug task forces completed 163 investigations of individuals or organizations involved in illegally selling Colorado marijuana both in and out of state.
  - These cases led to:
    - 252 felony arrests
    - 7,116 (3.5 tons) pounds of marijuana seized
    - 47,108 marijuana plants seized
    - 2,111 marijuana edibles seized
    - 232 pounds of concentrate seized
    - 29 different states to which marijuana was destined

- Highway interdiction seizures of Colorado marijuana increased 43 percent in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.

- Of the 346 highway interdiction seizures in 2016, there were 36 different states destined to receive marijuana from Colorado.
  - The most common destinations identified were Illinois, Missouri, Texas, Kansas and Florida.

Section 8 – Diversion by Parcel:

- Seizures of Colorado marijuana in the U.S. mail has increased 844 percent from an average of 52 parcels (2009-2012) to 491 parcels (2013-2016) in the four-year average that recreational marijuana has been legal.

- Seizures of Colorado marijuana in the U.S. mail has increased 914 percent from an average of 97 pounds (2009-2012) to 984 pounds (2013-2016) in the four-year average that recreational marijuana has been legal.
Section 9 – Related Data:

- Crime in Denver **increased 6 percent** from 2014 to 2016 and crime in Colorado **increased 11 percent** from 2013 to 2016.

- Colorado annual tax revenue from the sale of recreational and medical marijuana was **0.8 percent** of Colorado’s total statewide budget (FY 2016).

- As of June 2017, there were **491 retail marijuana stores** in the state of Colorado compared to **392 Starbucks** and **208 McDonald’s**.

- **66 percent** of local jurisdictions have banned medical and recreational marijuana businesses.

Section 10 – Reference Materials:

This section lists various studies and reports regarding marijuana.

**There is much more data in each of the ten sections. This publication may be found on the Rocky Mountain HIDTA website; go to www.rmhidta.org and select Reports.**
Introduction

Purpose

The purpose of this annual report is to document the impact of the legalization of marijuana for medical and recreational use in Colorado. Colorado serves as an experimental lab for the nation to determine the impact of legalizing marijuana. This is an important opportunity to gather and examine meaningful data and identify trends. Citizens and policymakers nationwide may want to delay any decisions on this important issue until there is sufficient and accurate data to make informed decisions.

The Debate

There is an ongoing debate in this country concerning the impact of legalizing marijuana. Those in favor argue that the benefits of removing prohibition far outweigh the potential negative consequences. Some of the cited benefits include:

- Eliminate arrests for possession and sale, resulting in fewer people with criminal records and a reduction in the prison population
- Free up law enforcement resources to target more serious and violent criminals
- Reduce traffic fatalities since users will switch from alcohol to marijuana, which does not impair driving to the same degree
- No increase in use, even among youth, because of strict regulations
- Added revenue generated through taxation
- Eliminate the black market

Those opposed to legalizing marijuana argue that the potential benefits of lifting prohibition pale in comparison to the adverse consequences. Some of the cited consequences include:

- Increase in marijuana use among youth and young adults
- Increase in marijuana-impaired driving fatalities
- Rise in number of marijuana-addicted users in treatment
- Diversion of marijuana
• Adverse impact and cost of the physical and mental health damage caused by marijuana use
• The economic cost to society will far outweigh any potential revenue generated

Background

As of 2016, a number of states have enacted varying degrees of legalized marijuana by permitting medical marijuana and eight permitting recreational marijuana. In 2010, legislation was passed in Colorado that included the licensing of medical marijuana centers (dispensaries), cultivation operations, and manufacturing of marijuana edibles for medical purposes. In November 2012, Colorado voters legalized recreational marijuana allowing individuals to use and possess an ounce of marijuana and grow up to six plants. The amendment also permits licensing marijuana retail stores, cultivation operations, marijuana edible manufacturers, and testing facilities. Washington voters passed a similar measure in 2012.

Preface

It is important to note that, for purposes of the debate on legalizing marijuana in Colorado, there are three distinct timeframes to consider: the early medical marijuana era (2000-2008), the medical marijuana commercialization era (2009 – current) and the recreational marijuana era (2013 – current).

• 2000 – 2008: In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient, and/or caregiver of a patient, to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. During that time there were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in the state.

• 2009 – Current: Beginning in 2009 due to a number of events, marijuana became de facto legalized through the commercialization of the medical marijuana industry. By the end of 2012, there were over 100,000 medical marijuana cardholders and 500 licensed dispensaries operating in Colorado. There were also licensed cultivation operations and edible manufacturers.
• **2013 – Current:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over the age of 21. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edible manufacturers. Retail marijuana businesses became operational January 1, 2014.

**Colorado’s History with Marijuana Legalization**

**Medical Marijuana 2000 – 2008**

In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient and/or caregiver of a patient to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. Amendment 20 provided identification cards for individuals with a doctor’s recommendation to use marijuana for a debilitating medical condition. The system was managed by the Colorado Department of Public Health and Environment (CDPHE), which issued identification cards to patients based on a doctor’s recommendation. The department began accepting applications from patients in June 2001.

From 2001 – 2008, there were only 5,993 patient applications received and only 55 percent of those designated a primary caregiver. During that time, the average was three patients per caregiver and there were no known retail stores selling medical marijuana (dispensaries). Dispensaries were not an issue because CDPHE regulations limited a caregiver to no more than five patients.

In late 2007, a Denver district judge ruled that CDPHE violated the state’s open meeting requirement when it set a five-patient-to-one-caregiver ratio and overturned the rule. That opened the door for caregivers to claim an unlimited number of patients for whom they were providing and growing marijuana. Although this decision expanded the parameters, very few initially began operating medical marijuana commercial operations (dispensaries) in fear of prosecution, particularly from the federal government.

The judge’s ruling, and caregivers expanding their patient base, created significant problems for local prosecutors seeking a conviction for marijuana distribution by caregivers. Many jurisdictions ceased or limited filing those types of cases.
Medical Marijuana Commercialization and Expansion 2009 – Present

The dynamics surrounding medical marijuana in Colorado began to change substantially after the Denver judge’s ruling in late 2007, as well as several incidents beginning in early 2009. All of these combined factors played a role in the explosion of the medical marijuana industry and number of patients:

At a press conference in Santa Ana, California on February 25, 2009, U.S. Attorney General Eric Holder was asked whether raids in California on medical marijuana dispensaries would continue. He responded “No” and referenced the President’s campaign promise related to medical marijuana. In mid-March 2009, the U.S. Attorney General clarified the position saying that the Department of Justice enforcement policy would be restricted to traffickers who falsely masqueraded as medical dispensaries and used medical marijuana laws as a shield.

Beginning in the spring of 2009, Colorado experienced an explosion to over 20,000 new medical marijuana patient applications and the emergence of over 250 medical marijuana dispensaries (allowed to operate as “caregivers”). One dispensary owner claimed to be a primary caregiver to 1,200 patients. Government took little or no action against these commercial operations.

In July 2009, the Colorado Board of Health, after public hearings, voted to keep the judge’s ruling of not limiting the number of patients a single caregiver could have. They also voted to change the definition of a caregiver to a person that only had to provide medicine to patients, nothing more.

On October 19, 2009, U.S. Deputy Attorney General David Ogden provided guidelines for U.S. Attorneys in states that enacted medical marijuana laws. The memo advised to “Not focus federal resources in your state on individuals whose actions are in clear and unambiguous compliance with existing state law providing for the medical use of marijuana.”

By the end of 2009, new patient applications jumped from around 6,000 for the first seven years to an additional 38,000 in just one year. Actual cardholders went from 4,800 in 2008 to 41,000 in 2009. By mid-2010, there were over 900 unlicensed marijuana dispensaries identified by law enforcement.

In 2010, law enforcement sought legislation to ban dispensaries and reinstate the one-to-five ratio of caregiver to patient as the model. However, in 2010 the Colorado
Legislature passed HB-1284 which legalized medical marijuana centers (dispensaries), marijuana cultivation operations, and manufacturers for marijuana edible products. By 2012, there were 532 licensed dispensaries in Colorado and over 108,000 registered patients, 94 percent of which qualified for a card because of severe pain.

**Recreational Marijuana 2013 – Present**

In November of 2012, Colorado voters passed Amendment 64 which legalized marijuana for recreational use. Amendment 64 allows individuals 21 years or older to grow up to six plants, possess/use 1 ounce or less, and furnish an ounce or less of marijuana if not for the purpose of remuneration. Amendment 64 permits marijuana retail stores, marijuana cultivation sites, marijuana edible manufacturers and marijuana testing sites. The first retail marijuana businesses were licensed and operational in January of 2014. Some individuals have established private cannabis clubs, formed co-ops for large marijuana grow operations, and/or supplied marijuana for no fee other than donations.

What has been the impact of commercialized medical marijuana and legalized recreational marijuana on Colorado? Review the report and you decide.

**NOTES:**
- Data, if available, will compare pre- and post-2009 when medical marijuana became commercialized and after 2013 when recreational marijuana became legalized.
- Multi-year comparisons are generally better indicators of trends. One-year fluctuations do not necessarily reflect a new trend.
- Percentage comparisons may be rounded to the nearest whole number.
- Percent changes added to graphs were calculated and added by Rocky Mountain HIDTA.
- This report will cite datasets with terms such as “marijuana-related” or “tested positive for marijuana.” That does not necessarily prove that marijuana was the cause of the incident.