

**ORDINANCE NO. 23-01**

**AN ORDINANCE ADOPTING MARIJUANA LICENSING REGULATIONS FOR THE UNINCORPORATED HUERFANO COUNTY**

**WHEREAS**, the General Assembly enacted the Colorado Medical Marijuana Code in Article 10 of Title 44 to implement Amendment 20 to the Colorado Constitution (Article XVIII, §14) authorizing the use of marijuana for medical purposes; and

**WHEREAS**, On November 6, 2012, the people of Colorado voted to approve Amendment 64 to the Colorado Constitution (Article XVIII, § 16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now identified as "retail" marijuana establishments and use; and

**WHEREAS**, C.R.S. 44-10-104 establishes County authority to regulate the cultivation and sale of marijuana and to impose a local licensing requirement; and,

**WHEREAS**, C.R.S 44-10 establishes State regulations on marijuana, including types of licenses for medical, retail and cultivation, and that all those types of licenses described in this ordinance are also regulated by the State; and,

**WHEREAS**, C.R.S. 30-15-406 requires that an ordinance be published in full in one newspaper of general circulation at least ten days before its adoption; and,

**WHEREAS**, the Huerfano County Board of County Commissioners (the "Board") is authorized by C.R.S. §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

**WHEREAS**, the Board adopted commercial marijuana regulations as Section 18.00 of the Land Use Code with Resolution 14-14, and subsequently amended with Resolution 15-18, and again with Resolution 18-27; and,

**WHEREAS**, Resolution 14-15 and 14-16 placed the question on the ballot for approval by the voters of Huerfano County to impose an excise tax of 5% on unprocessed commercial marijuana cultivation when unprocessed commercial marijuana is first sold or transferred by a retail marijuana cultivation facility, with tax revenues to be used to fund improvements to County facilities and costs related to the regulation of marijuana. Voters approved the ballot question and the excise tax became effective beginning on January 1, 2015; and,

**WHEREAS**, the Board passed Resolution 18-06 establishing regulations for the collection, administration and enforcement of the excise tax; and,

**WHEREAS**, the Board has determined that regulating marijuana by license rather than conditional use permit is in the interest of the citizens of Huerfano County; and,

**WHEREAS**, the Board has determined that expanding the scope of marijuana business types allowed in the County by providing for licensing for retail and hospitality licenses may contribute to increased tax revenue and employment by stimulating economic growth and an increase in tourism; and

**WHEREAS**, the Board finds it is in the interest of public health, safety and welfare that the Board adopt these Huerfano County Marijuana Licensing Regulations.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Huerfano County as follows:

## Part 1. GENERAL PROVISIONS

### Section 1.01 Title

These regulations shall be known and referred to as the "Huerfano County Marijuana Licensing Regulations" (referred to herein as "Regulations").

### Section 1.02 Authority and Scope

- 1.02.01 Authority: These Regulations are adopted pursuant to Colorado Const., Art. XVIII, §16(5)(f); the Colorado Marijuana Code, C.R.S. §44-10-101, et seq. ("Colorado Marijuana Code"), including § C.R.S. §30-11-101(1)(e), (2); and C.R.S. §30-11-107(1)(i).
- 1.02.02 Establishment: These regulations were adopted by ordinance of the Huerfano County Board of County Commissioners and they replace Section 18 of the Land Use Code covering conditional use permits for marijuana. Section 18 shall remain in effect for one year from the time of the effective date of this ordinance for those operations for which Conditional Use Permits were in place at the time of adoption. This ordinance, and not section 18 of the Land Use Code shall govern applications for marijuana establishments received after the effective date for this ordinance.
- 1.02.03 Jurisdiction: Conditional Use Permits for marijuana in place at the time of adoption of this ordinance will expire one year from the adoption of this ordinance, after which, holders of CUPs will be required to apply for a license. These Regulations apply only to the unincorporated areas of Huerfano County, Colorado.

### Section 1.03 Purpose

- 1.03.01 The purpose of these Regulations are to:
- (1) Comply with the County's obligations under the Colorado Marijuana Code;
  - (2) Require that "Marijuana Establishments" shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Marijuana Code;
  - (3) Mitigate potential negative impacts that the Marijuana Establishments may cause on surrounding properties and persons;
  - (4) Regulate the conduct of persons owning, operating, and using Marijuana Establishments to protect the public health, safety and welfare;
  - (5) Establish a nondiscriminatory mechanism by which the County appropriately regulates the location and operation of Marijuana Establishments within the County.
- 1.03.02 By enacting these Regulations, Huerfano County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of federal law.

### Section 1.04 Definitions

- 1.04.01 Unless otherwise expressly provided, the definitions in the Colorado Marijuana Code, including the definitions in C.R.S. §44-10-103, shall apply in these Regulations with respect to Medical Marijuana Establishments and Retail Marijuana Establishments.
- 1.04.02 The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) "Authority," "Huerfano County Local Licensing Authority" and "Local Licensing Authority" have the same meaning for the purposes of these Regulations.
  - (2) "Colorado Marijuana Code" means the Colorado Marijuana code, Article 10 of Title 44, CRS,

and the state administrative regulations promulgated pursuant thereto.

- (3) “Dual Operation” means a person who holds both a license to operate a Medical Marijuana Establishment and a license to operate a Retail Marijuana Establishment may operate both licenses in the same premises (“dual operation”) provided the licensee meets the requirements of the Colorado Marijuana Code and this Chapter.
- (4) "Good Cause", for purposes of refusing or denying a license issuance, renewal or transfer 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 these Regulations, the Colorado Marijuana Code, or the state administrative regulations promulgated pursuant thereto, as applicable;
  - b. The Licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;
  - c. The 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; or
  - d. The Licensed Premises have been inactive for at least one year.
- (5) “Licensed Premises” means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Marijuana Code, and these Regulations. "Licensed Premises" includes an off-premises storage facility owned, operated or used by the Licensee.
- (6) “Licensee” means a person licensed pursuant to these Regulations.
- (7) “Licensing Agent” means the person designed by the Board of County Commissioners to process marijuana applications or, if no such person has been specifically designated, the Director of the Department of Planning and Development or his or her designee.
- (8) "Location" means a particular parcel of land that may be identified by an address or other descriptive means.
- (9) "Medical Marijuana Establishment" means a medical marijuana store, medical marijuana-infused products manufacturer, medical marijuana testing facility, and/or medical marijuana cultivation operation, each as defined in the Colorado Marijuana Code.
- (10) “Owner "means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical or a Retail Marijuana Establishment.
- (11) "Premises" means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.
- (12) “Residential Zone” means a zone district intended primarily for residential uses that allows for lot sizes under 35-acres.
- (13) "Retail Marijuana Establishment” means a retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturer and/or retail marijuana testing facility, each as defined in the Colorado Marijuana Code.
- (14) “Sale” or “Seller” includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

## **Section 1.05 Adoption of Colorado Marijuana Code and State Administrative Regulations**

- 1.05.01 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Marijuana Code, all of the provisions of the Colorado Marijuana Code, as they are amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments and Retail Marijuana Establishments.
- 1.05.02 If there is a conflict between the provisions of these Regulations and the Colorado Marijuana Code, including with the state administrative regulations promulgated pursuant to them, respectively, the provisions of these Regulations control to the fullest extent permitted by applicable law.

### **Section 1.06 Dual Operations**

- 1.06.01 A person may operate a licensed Medical Marijuana Store, Cultivation Facility or Medical Marijuana-infused Products Manufacturing Facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.
- 1.06.02 A Medical Marijuana Store licensee may also hold a Retail Marijuana Store license and operate a retail business operation on the same licensed premises provided that the licensee does not authorize patients under the age of 21 years to be on the premises. The licensee must post signage that clearly states: “You must be 21 years of age or older to enter this premises.” The licensee may display both medical marijuana and retail marijuana on the same sale floor, provided the licensee maintains virtual separation of its inventory. A Medical Marijuana Store that authorizes medical marijuana patients under the age of 21 years to be on the premises cannot share its premises with a Retail Marijuana Establishment and the two shall maintain distinctly separate licensed premises.
- 1.06.03 A Medical Marijuana Cultivation Facility licensee may also hold a Retail Marijuana Cultivation Facility license and operate on the same premises. Persons operating dual medical and retail cultivation operations shall maintain virtual separation of the facilities, marijuana plants, and marijuana inventory.
- 1.06.04 A Medical Marijuana Products Manufacturer licensee may also hold a Retail Marijuana Products Manufacturer license on the same premises. Persons operating a Medical Marijuana Products Manufacturer facility and a Retail Marijuana Products Manufacturer facility shall maintain virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory.

### **Section 1.07 Operation Limitations**

Licensees shall be subject to the following additional operation limitations:

- (1) No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location.
- (2) Indoor Licensed Premises shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the Licensed Premises or at any adjoining use or property.
- (3) A medical marijuana store and retail marijuana store may be open for the sale of marijuana only between the hours of 8 a.m. to 12 a.m.
- (4) No Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the Licensed Premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

## **Section 1.08 Location Criteria**

- 1.08.01 No License may be issued to operate a Medical or Retail Marijuana Cultivation Facility in a Residential zone district, or operate a medical or retail marijuana store, manufacturing facility or testing facility as a "home occupation" under the Huerfano County Zoning Regulations.
- 1.08.02 When the Local Licensing Authority has reason for concern that an adjacent use may not be compatible with the proposed use, a statement of no opposition from adjacent property owners may be requested by certified mail to addresses listed with the Assessor, which shall include a description of the scope of the project to be licensed and information on where application materials can be found for review, and how to respond. If no response is received within 30-days, it shall be considered a de-facto statement of no opposition.
- 1.08.03 Proposed new cultivation facilities located within three miles (3) of a municipality boundary shall have an extraterritorial commercial water tap from said community. An approved contract with the municipality for said water tap must be included in the application at the time of the initial submittal or the application shall not be accepted. The water line must be permanently installed from the municipality to the facility prior to the issuing of a Certificate of Occupancy.
- 1.08.04 Any new cultivation facilities located more than three miles (3) of a municipality must demonstrate a physical, legal source of water approved by a Division 2 Engineer from the Colorado Division of Water Resources. Documentation of this requirement must be included in the application at the time of the initial submittal, or the application shall not be accepted.
- 1.08.05 All applications for commercial marijuana cultivation shall be sent to the Colorado Division of Water Resources, the appropriate Fire District, the Huerfano County Sheriff Department, and any other agency determined necessary by the Licensing Authority for review. Any comments by these agencies should be returned to County Staff within twenty-one (21) days of receipt of the application.
- 1.08.06 No license for retail or medical marijuana stores will be issued within three (3) miles of a municipality boundary.
- 1.08.07 Retail or medical marijuana stores, testing facilities and infused products manufacturers not located in a Commercial or Industrial zoning district and not operating as a dual operation with a cultivation facility shall have a water supply provided by a municipal or communal water utility.

## **Section 1.09 County Reservations**

- 1.09.01 Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Const. Art. XVIII, §16(5)(±), or CRS §44-10-104.
- 1.09.02 Adoption of these Regulations is not intended to waive or otherwise impair the County's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

## **Part 2. LOCAL LICENSING AUTHORITY**

### **Section 2.01 Establishment of Local Licensing Authority**

The Huerfano County Local Licensing Authority shall be the Huerfano County Board of Commissioners. The Chairman and Vice-chairman of the Board of County Commissioners shall be, respectively, the Chairman and Vice-chairman of the Local Licensing Authority.

### **Section 2.02 Clerk**

The Huerfano County Clerk & Recorder, or their deputy delegated to serve as Clerk to the Huerfano County Board of Commissioners, shall be the Clerk to the Huerfano County Local Licensing Authority.

### **Section 2.03 Powers**

The Local Licensing Authority shall have the powers described in the Colorado Marijuana Code, including to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held. In the absence of the Chairman, the Vice-chairman may exercise the powers of the Local Licensing Authority.

## **Part 3. LICENSES**

### **Section 3.01 Medical Marijuana Licenses**

The Huerfano County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Colorado Marijuana Code who fulfill the requirements for one of the following:

- (1) Medical marijuana store;
- (2) Medical marijuana cultivation operation;
- (3) Medical marijuana-infused products manufacturer; and
- (4) Medical marijuana testing facility.

### **Section 3.02 Retail Marijuana Licenses**

The Huerfano County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Colorado Marijuana Code who fulfill the requirements for one the following:

- (1) Retail marijuana store;
- (2) Retail marijuana cultivation facility;
- (3) Retail marijuana products manufacturing facility; and
- (4) Retail marijuana testing facility.
- (5) Storage warehouse
- (6) Retail Marijuana Hospitality and Sales Business
- (7) Marijuana Hospitality Business

### **Section 3.03 Nature of Local License**

3.03.01 A local license pursuant to these Regulations shall apply to and be valid for only a specific person or entity, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person or entity, a different Establishment, or different Premises except as provided by these Regulations.

3.03.02 Any license given hereunder does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana.

### **Section 3.04 General Requirements**

3.04.01 Any licenses issued under prior titles pursuant to this Chapter and the Colorado Marijuana Laws may continue to operate under the new license titles and any future changes to those titles shall have no impact on the requirements and restrictions for each license type.

3.04.02 A license provided and issued pursuant to this Chapter shall specify the date of issuance, the date of approval, the period of licensure, which shall be one year from the date of approval or, if the approval

order has been extended by the Board, one year from the expiration of the initial approval, the name of the licensee and the premises licensed. The licensee shall, at all times, conspicuously post all licenses, diagrams, and security plans on the licensed premises pursuant hereto.

- 3.04.03 Rules by Licensing Agent. The Licensing Agent is authorized to make rules and publish forms and policy consistent with the intent and spirit of this Chapter concerning applications, the application process, the information required of applicants, the application procedures, reporting of changes, and the administration and procedures to be used and followed in the application process, hearings, and general license administration.
- 3.04.04 County Excise Tax: Pursuant to Huerfano County Board of County Commissioners' Resolution 14-15 a local five percent (5%) excise tax on unprocessed commercial marijuana cultivation when unprocessed marijuana is first sold or transferred by a retail marijuana cultivation facility that has been approved by the Huerfano County voters. The excise tax is imposed upon the Facility Operator who shall pay the excise tax to the Huerfano County Treasurer upon the transferring of any commercial marijuana from said facility. Failure to complete with all provisions of this ordinance may result in revocation of the license.

**Section 3.05 Annual New License Caps**

For the purpose of preventing an administrative backlog and a saturation of the market, the County will accept a limited number of new license applications for medical and retail marijuana stores in the same calendar year. Should more than the stated cap on new applications be received in a calendar year, excess applications will be placed on a waitlist to be processed in the next calendar year. Waitlisted applications will be processed in the order they were received.

Facility Type	Cap on New Licenses/year
medical marijuana store;	3
retail marijuana store;	3

**Section 3.06 Entitlements**

No person shall have any entitlement or vested right to licensing under these Regulations.

**Section 3.07 No local license required.**

At this time, the county is not imposing separate local licensing requirements on individuals and entities for the following medical or retail marijuana licenses: testing facilities, marijuana transporters, marijuana research and development facilities, centralized distribution permits, or R&D co-location permits. The local licensing authority shall neither approve nor deny such license applications. For licensing purposes, such individuals and entities must only possess a valid and current license issued by the state licensing authority to operate in the county.

**Part 4. LICENSES REQUIRED**

**Section 4.01 Unlawful Acts**

- 4.01.01 For any business, establishment, facility or activity which is required by the Colorado Marijuana Code to have a state license, excepting a medical marijuana transporter or a retail marijuana transporter licensed under one of those codes, it is unlawful and a violation of these Regulations to operate in unincorporated Huerfano County without both a current state license and a current license issued by the Local Licensing Authority of the same type for the same activity at the same Location.
- 4.01.02 A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority and, when required by applicable law, their approval. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal

government.

#### **Section 4.02 Coordination of Local and State Licenses**

- 4.02.01 If a state license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the denial, suspension or revocation of the associated state license.
- 4.02.02 Upon the surrender of a state license for a Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect.
- 4.02.03 A local license shall not become effective unless and until all necessary state licenses are in effect.

#### **Section 4.03 Duration of Local Licenses**

- 4.03.01 Except as provided in Section 4.03.02 below, any local license approved under these Regulations shall be valid for a period of one year from the date of issuance, or as otherwise stated on the license, unless sooner suspended, revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months from the date of issuance to synchronize the license periods of the state and local licenses of the same type for the same activity at the same Location.
- 4.03.02 If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and unappealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

#### **Section 4.04 License Contents**

The licenses issued pursuant to these Regulations must specify the type of license, the name of the Licensee, the Premises licensed, the date of issuance, any conditions imposed by the licensing authority, and the date of expiration or the period the license is effective.

### **Part 5. LICENSE APPLICATIONS**

#### **Section 5.01 Application Information**

- 5.01.01 Applications for a local license shall be submitted by submitting a duplicate of the application form(s) submitted to the State Licensing Authority for a license of the same type for the same activity at the same Location, together with or including:
- (1) A complete and accurate list of all Owners, officers and others who own, manage, or are otherwise substantially associated with conducting the business or establishment such that an occupational license or registration is required pursuant to the Colorado Marijuana Code;
  - (2) Identity of the owner of the Premises on which the Licensed Premises are to be located;
  - (3) A site plan of the Premises;
  - (4) A vicinity map including properties within a 1,500-foot radius of the proposed facility.
  - (5) A list of all other uses on the Premises and on properties within 500 feet;
  - (6) The Waiver and Release of Liability and Agreement to Indemnify Huerfano County Form (substantially in the form in Appendix A to these regulations);



- (7) An Investigation Authorization and Authorization/Request to Release Information;
- (8) If the Premises are not owned by the applicant, a complete copy of the lease or other agreement by which the applicant has possession of the Premises, which must expressly state possession is for the purpose of operating the proposed Marijuana Establishment;
- (9) A copy of the most recent deed for the Premises (or the property of which the Premises are a part);
- (10) For applications for a renewal or transfer, verification that the State Licensing Authority issued a license of the same type for the same activity at the same Location for the previous term of the license sought to be renewed or transferred;
- (11) Verification of the State Licensing Authority having accepted the application to it, in the form submitted to the Local License Authority, as complete for processing;
- (12) An explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months;
- (13) A description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans;
- (14) Plans for the interior of the licensed premises, or place of business that shall include a detailed floor plan layout drawn to scale, which clearly reflects the uses, functions, and operations within each building. Plans to include ventilation of the facilities that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For all Marijuana Establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process;
- (15) An inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
- (16) \$5,000 bond to the County to cover the late or non-payment of taxes.
- (17) The operation of the proposed establishment is generally consistent with local context and will not adversely affect the public health, safety, or welfare of the area;
- (18) For an establishment proposed in a Residential zone district, a demonstration that there is a desire among the owners and tenants within 200 ft. of the property boundaries for the establishment, as demonstrated by petitions, remonstrance, or otherwise; and
- (19) Such other information as the Local Licensing Authority requires.

5.01.02 A site plan of the Premises will be scaled and show the following:

- (1) The scale used;
- (2) North arrow designating true north;
- (3) Property boundaries of the Premises, indicating front, rear and side lines;
- (4) Location of all proposed buildings/structures and existing buildings/structures that will remain, and notation of any phasing;
- (5) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;

- (6) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
  - (7) Platted building envelope(s), if applicable;
  - (8) Parking areas and spaces;
  - (9) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
  - (10) Total acreage or square footage of the Premises; and
  - (11) Total square footage of all buildings and total square footage of building footprints.
  - (12) Drainage plan demonstrating on-site infiltration capacity for runoff from impermeable surfaces.
- 5.01.03 All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO<sub>2</sub> gas will be used in the cultivation and the location of the generation, use or storage shall be identified on the site plans.
- 5.01.04 The applicant shall provide complete and accurate information in the application.
- 5.01.05 The applicant must promptly update any of the information required of an application by this section 5.01 in the event of any material change between the time the application is first submitted and the issuance or denial of the license.
- 5.01.06 By submitting a license application, the owner of the Premises and the applicant authorize (a) the Authority and its designee, (b) the Huerfano County Building, Planning, and Public Health & Environment Departments and other departments and agencies of the County, (c) in its jurisdiction, the relevant Fire District and its designee, and (e) the Huerfano County Sheriff and designees, to enter upon and inspect the Premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.
- 5.01.07 All applications for licenses must be submitted electronically.

**Section 5.02 Processing Applications**

- 5.02.01 Applications shall be submitted to the Authority in care of the Huerfano County Land Use Department. The Land Use Department receives applications and determines compliance with Huerfano County building and zoning regulations. The Building Department also shall also conduct the post-approval inspections required by these Regulations as a condition of license approval.
- 5.02.02 Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.
- 5.02.03 Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Land Use office will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes:
- (1) Assessor: For determination that assessment records and personal property schedules are current and complete.

- (2) Land Use Office: For determination of completeness of application, compliance with land use and other local regulations and with state regulations.
- (3) Finance Department: For determination of compliance with the County-Wide Retail Marijuana Excise Tax.
- (4) Public Health & Environment: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.
- (5) Treasurer: For determination of payment of property taxes on the Premises.
- (6) Any other County department deemed relevant in the circumstances: For determination of compliance with laws and regulations administered by it.
- (7) Huerfano County Sheriff: For investigation as requested by the Local Licensing Authority; for post-approval inspection of the Premises authorized by the Colorado Marijuana Code, except and to the extent the inspection is performed by the County Land Use Department.
- (8) Fire Chief for the fire protection district in which license is sought for its determination of Fire Code compliance.
- (9) Weed Manager: To conduct an initial conditions assessment of the site for cultivation facilities.
- (10) County departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Colorado Marijuana Code.

5.02.04 Referral agencies and departments must submit their written findings and conclusions to the County Land Use office no later than thirty days after the referral.

5.02.05 The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such information from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the applicant is eligible for a state license.

5.02.06 The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted.

5.02.07 The applicant is responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Colorado Marijuana Code.

5.02.08 An application not deemed complete within 90 days of the submittal date will be considered abandoned. No further action will be taken on the application

## **Part 6. APPROVAL CRITERIA**

### **Section 6.01 Basic Criteria**

6.01.01 Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:

- (1) The appropriate application is complete and the full application, license and operating fees have been paid;
- (2) The Land Use Department has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Huerfano County Land Use Regulations;

- (3) No zoning violations exist on the Premises;
- (4) All proposed signs meet the requirements of the Huerfano County Land Use Regulations;
- (5) All proposed lighting meets the Huerfano County Land Use Regulations;
- (6) Any structure in which a licensed use is located has been inspected by the Huerfano County Building Official, Building Inspector or designee, complies with all applicable Building Regulation provisions and these regulations, and all necessary building permits have been obtained;
- (7) The Premises complies with all applicable Land Use regulations including, but not limited to, driveway, grading, and setback regulations;
- (8) The Premises has all required well or water and sanitation system permits or is adequately served by public water and/or sewer;
- (9) Evidence of a legal and adequate water supply has been established;
- (10) The Premises is not subject to unresolved enforcement action by the Las Animas - Huerfano County Health Department; The Premises complies with the applicable Fire Code;
- (11) All personal property tax schedules related to the Premises are submitted timely and are complete;
- (12) All property taxes have been paid and no tax liens exist on the Premises;
- (13) All Huerfano County sales taxes have been timely reported and paid;
- (14) All Huerfano County retail marijuana cultivation facility excise taxes have been timely reported and paid;
- (15) The applicant and Premises are in compliance with all other applicable County regulations;
- (16) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and
- (17) The proposed Licensed Premises are located in a Location permitted by these Regulations.
- (18) Protests from nearby residents or HOA/POAs will be considered as a potential justification for denial.

#### 6.01.02 Additional Approval Criteria for Retail Marijuana Hospitality and Sales Business Licenses

- (1) Provide a safety plan that includes policies for preventing customers from driving under the influence and mitigating any other potential risks.
- (2) Provide ventilation in smoking areas to minimize exposure to second-hand smoke. Outdoor smoking or vaping areas must be at least 20 ft. from any adjacent property or use.

#### **Section 6.02 Applicant Burden of Proof**

The applicant bears the burden of proving it meets all licensing requirements.

#### **Section 6.03 State License Must Be Issued First**

Before a new local license may be issued, or a transfer of ownership is approved, the applicant must have been issued a state license of the same type for the same activity at the same Location, or had the transfer of ownership approved by the state, as provided in the Colorado Marijuana Code. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a state license *is* issued, a local license may be issued - conditioned on the issuance of the state license - if it is demonstrated to the satisfaction of the Local Licensing Authority that the applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority.

#### **Section 6.04 Buildings Must Be Ready for Occupancy**

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and a certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the applicant has complied with all submitted and approved plans, including any interior work.

#### **Section 6.05 Conditional Approval of an Application**

- 6.05.01 If the Local Licensing Authority approves an application with conditions, such conditional approval shall be valid for a maximum period of one year from the date of approval. If the conditions have not been completely satisfied within that time period, the approval expires, and the applicant must file a new application if it still desires a license under these Regulations.
- 6.05.02 Privileges of licensure not vested. An order of the Local Licensing Authority conditionally approving an application is not a license but only the right to obtain a license once certain conditions have been met. A conditionally approved applicant is not a licensee and may in no case exercise the privileges of licensure, including operating a licensed establishment, taking any other preliminary steps for which, a license is required, or transferring the conditional approval through a transfer of ownership.
- 6.05.03 Jurisdiction of Local Licensing Authority. A conditionally approved applicant is subject to the jurisdiction of the Licensing Agent and Board of County Commissioners and to investigation by Huerfano County, disciplinary actions before the Licensing Authority or Hearing Officer, and any other requirements or procedures imposed by law or by order of the Board. All rights conveyed through the Local Licensing Authority's approval or conditional approval may be suspended or revoked through the same procedure, and with the same effect, as a license.
- 6.05.04 Violations and Administrative Revocation. It shall be a violation of this section for a conditionally approved applicant to commit an act or omission, which, if committed by a licensee, would be a violation of any other provision of this Chapter or of the Colorado Marijuana Code. Additionally, the Local Licensing Authority may also, without finding a violation, administratively rescind an approval order and revoke all rights conferred thereby if it finds that a circumstance necessary to its approval has materially changed or ceased to exist. At any point prior to the issuance of the license, the Local Licensing Authority or the Licensing Agent, subject to approval by the Local Licensing Authority at its next meeting, may stay the issuance of a license if it reasonably appears that a conditionally approved applicant has violated or is being investigated for violating any provision of this Chapter or of the Colorado Marijuana Code, or if it reasonably appears that there are grounds to rescind the conditional approval order.
- 6.05.05 Conditional Approval Extensions. When any conditionally approved applicant requires an extension to complete an act required by its approval order, the Board may, unless this Chapter or the Colorado Marijuana Code require otherwise, provide a one-time extension of the term of the order if the applicant requesting the extension demonstrates that the delay at issue was reasonably justified, and the applicant is in compliance with the terms and conditions of the order, of this Chapter, and of the Colorado Marijuana Code. It is at the discretion of the Local Licensing Authority to determine if the facts establish a reasonable justification. This extension shall run from the date of expiration of the initial order for a period of one year. If the applicant does not comply within the period of the extension, then the order shall expire.

#### **Section 6.06 Condition of Local License for Release of Huerfano County**

It shall be a condition of all local licenses that the applicant/Licensee releases Huerfano County from liability to the applicant/Licensee and also agrees to indemnify, defend and hold harmless Huerfano

County from liability arising from injuries and damages substantially in the form in Appendix A to these Regulations.

## **Part 7. ACTION ON APPLICATION; HEARINGS**

### **Section 7.01 Action on Applications**

The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairman.

### **Section 7.02 Public Hearings and Public Notice**

7.02.01 A public hearing shall be held to consider every new application for a license and transfer of a license to a new location, subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof. The Local Licensing Authority may opt to process applications for license renewals without a public hearing.

7.02.02 If a public hearing is held, it shall begin not less than ninety days after the date the complete application is submitted. The Authority shall post and publish public notice thereof not less than ten days before the hearing. The Authority shall give public notice by posting a sign in a conspicuous place on the license applicant's Premises for which a local license application has been made and by publication in a newspaper of general circulation in the County.

7.02.03 Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice- president, secretary, and manager or other managing officers.

7.02.04 Notice given by publication shall contain the same information as that required for signs.

### **Section 7.03 Preliminary Findings**

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation, in writing, to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

### **Section 7.04 License Findings**

7.04.01 Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Marijuana Establishment proposed.

7.04.02 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Colorado Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check: (i) if the State Licensing Authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority approves a license conditioned on the completion and successful review of the criminal background check by the State Licensing

Authority.

- 7.04.03 Except for a license renewal application, the Licensing Agent shall not accept any application from a person the Licensing Agent knows to be under investigation or facing disciplinary action by Huerfano County or the Colorado Department of Revenue for a violation of this Chapter or state laws or regulations unless ordered to do so by the Huerfano County Liquor and Marijuana Licensing Board.
- 7.04.04 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.09 of these Regulations.

### **Section 7.05 Decision on Application**

- 7.05.01 The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.
- 7.05.02 Where reasonably necessary and otherwise consistent with the Colorado Marijuana Code and the provisions of this Chapter, the Local Licensing Authority may conditionally approve any application made under this Chapter and may also issue a conditional or stipulated license or place conditions on an existing license.
- 7.05.03 Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

### **Section 7.06 Notice of Decision**

The Local Licensing Authority promptly shall notify the applicant and the State Licensing Authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

### **Section 7.07 Review of Local Licensing Authority Decision**

- 7.07.01 If a license is conditionally approved or denied without a public hearing, the applicant may request a hearing by the Local Licensing Authority, by a writing delivered to it within twenty days after notice of the action has been given to the applicant.
- 7.07.02 If a license is conditionally approved or denied following a public hearing by the Local Licensing Authority, that decision shall be deemed final action and the applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

## **Part 8. DUTIES OF LICENSEE**

### **Section 8.01 Notice of Changes**

- 8.01.01 Proposed Officer or Manager. A Licensee shall report in writing to the Local Licensing Authority, using the forms provided by the State Licensing Authority, the name, address, and date of birth of a proposed officer or corporate manager change thirty days prior to the change. The proposed officer or corporate manager must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before managing, or associating with the operation.
- 8.01.02 Change in Financial Interest. An Approved Business shall report each transfer or change of financial interest in the license to the Licensing Agent prior to any transfer or change. The Approved Business must also report to the Licensing Agent, within one day of discovering the same, any act, omission, or change in circumstance that could reasonably appear to result in the violation of any provision of this

Chapter or of any other state or local law.

- 8.01.03 Change of Trade Name. A Licensee shall report in writing any change of trade name, before using it, to the Local Licensing Authority by submitting to the Local Licensing Authority a file stamped copy of the Statement of Trade Name of a Reporting Entity that was filed with the Secretary of State.
- 8.01.04 Modification of premises or Manufacturing Process. A Licensee shall report in writing any modification to premises or changes in its manufacturing processes from what was described in its approved application, or which could affect its ability to comply with the Approval Criteria in Part VI of these regulations at least 60 days prior to such changes taking place. The Local Licensing Authority shall decide whether such changes can be processed administratively, or if a public hearing will be required prior to approval.
- 8.01.05 Licensee must receive permission from the Local Licensing Authority to modify the licensed premises prior to making any changes or modifications to the licensed premises.

## **Section 8.02 Possession of Licensed Premises**

- 8.02.01 At all times, a Licensee shall have possession of the Licensed Premises for which the License is issued by ownership, lease, or other written arrangement suited for possession of the Premises for the duration of the License. No application for a new license, for a change of location, or for a transfer of ownership shall be accepted unless the Licensing Agent receives sufficient proof that the Approved Business or applicant is in possession of the premises or will be entitled to possession of the premises for the entire period of the license.
- (1) Unless a condition of approval provides otherwise, an approved applicant must at all times after approval maintain possession of the premises to be licensed.
  - (2) A licensee must maintain possession of its licensed premises at all times after licensure. Possession is a prerequisite of licensure and any loss of possession while licensed invalidates the license.
- 8.02.02 Loss of Possession Invalidates Licenses and Orders. Subject to subsection 8.02.4 below, if the Licensing Agent or his or her designee sustains a finding that a licensee or approved applicant has lost of possession of its licensed premises or its premises to be licensed, the corresponding license or approval order shall be rescinded and deemed invalid.
- 8.02.03 Showing Cause to Licensing Agent. In the event that it reasonably appears to the Licensing Agent, his or her designee, or the Code Enforcement Officer, or such similar position, that a licensee or approved applicant has lost possession of the licensed premises or premises to be licensed, then the same official may send a notice by certified mail requiring the Approved Business to show cause within 5 business days as to why the license should not be rescinded for loss of possession. The Approved Business shall show cause in writing to the Licensing Agent.
- 8.02.04 Stay of Rescission. If a finding of loss of possession is sustained, the Licensing Agent or his or her designee may stay the rescission of the license or approval order if the Approved Business demonstrates that: (1) the loss of possession of its licensed premises or premises to be licensed was the result of extraordinary circumstances beyond the control of a reasonably prudent business or approved applicant; and (2) the licensee or applicant will either regain possession of the premises within thirty days or secure possession of new and appropriate premises within thirty days. The Approved Business bears the burden of justifying a stay and of complying with any conditions of the stay. In addition, the Licensing Agent may stay the recession of any license or approval order if the Approved Business applied for a change of location prior to the loss of possession.
- 8.02.05 Effect of Rescission. The rescission of a license or approval order under this Section shall not constitute a violation of this Code, but nothing shall prevent the Marijuana Compliance Inspector from electing to seek a finding of a violation for loss of possession instead of seeking rescission under this Section.



### **Section 8.03 Reporting of Enforcement Action**

A Licensee shall notify the Local Licensing Authority within four business days of any enforcement action commenced or taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Licensee.

### **Section 8.04 Public Display**

8.04.01 The Licensee shall conspicuously display the local- and the state-issued licenses at all times on the Licensed Premises.

8.04.02 All Retail Marijuana Establishments shall post a sign in a conspicuous location stating the following in all capital letters:

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

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

THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW.

### **Section 8.05 On-site Access to Occupational Licenses and Registrations**

All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Colorado Marijuana Code, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority.

### **Section 8.06 Condition of employing local labor**

At a minimum fifty-one percent (51%) of a facility's annual payroll shall be attributable to employees or independent contractors permanently residing within Huerfano County. As a condition of approval the operator agrees to furnish the following annually on or before January 15 of each year:

- (1) A list of all employees and independent contractors that are permanent residents of Huerfano County, the percentage of payroll attributed to those residing in Huerfano County, and their local address.
- (2) Confirmation of residency for each employee listed above as a Huerfano County resident. Verification shall be made from the Huerfano County Clerk's Records for either vehicle or voter registration, or verification acceptable to the Code Enforcement Officer.

### **Section 8.07 Compliance with Laws**

8.07.01 A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations; Colo. Const. Art. XVIII, §§14 and 16, and the Colorado Marijuana Code; Huerfano County Building and Land Use Regulations; Huerfano County public health regulations; applicable fire code; and all other state and local laws, rules and regulations applicable to the Establishment.

8.07.02 Any waiver of requirements pursuant to State laws or regulations issued by the State will not constitute a waiver of compliance requirements for local licensing purposes.

8.07.03 State Laws.

- (1) All applicants, licensees, or other persons subject to these regulations shall, at all times, be familiar

with the requirements of this Chapter, of the Colorado Marijuana Laws, and of any application and reporting procedures set forth by the Licensing agent, including any updates or changes made to such requirements.

- (2) All applicants, licensees, or other persons subject to these regulations shall, at all times, comply with all provisions of this Chapter, the Colorado Marijuana Laws, and any application or reporting procedures set forth by the Licensing Agent. Noncompliance with such laws or regulations and any violation under such laws or regulations constitutes a violation under this Chapter and shall be grounds to deny an application or for an enforcement action.
- (3) To the extent the state has adopted or adopts in the future any laws or rules stricter than or inconsistent with the provisions of this Chapter, those laws or regulations shall control.
- (4) To the extent the state has adopted or adopts in the future any laws or rules that require local licensing authority approval or the local licensing authority to opt-in, Huerfano County shall remain exempt from such changes unless and until the Board of County Commissioners approve the new law or rule.
- (5) Any waiver of requirements pursuant to State laws or regulations issued by the State will not constitute a waiver of compliance requirements for local licensing purposes pursuant to this Chapter, other Colorado Marijuana Laws, or other requirements under the Huerfano County Code and all local regulations of Huerfano County.

#### **Section 8.08 Notices of Changes in State License Status**

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Huerfano County Land Use office within one business day of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

#### **Section 8.09 Notices to Public Safety Agencies**

- 8.09.01 Before commencing operation, a Licensee shall notify the local firefighting agency and Huerfano County Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable.
- 8.09.02 Before commencing operation, a licensee also shall notify the local firefighting agency and Huerfano County Office of Emergency Management whether CO<sub>2</sub> or CO<sub>2</sub>-generating is used on the Licensed Premises, the method and the location.
- 8.09.03 A licensee shall promptly, within no more than one week, notify its local firefighting agency and Huerfano County Office of Emergency Management of any changes in this information.
- 8.09.04 All notices under this Section 8.09 shall be in writing, with a copy sent to the Local Licensing Authority.

### **Part 9. RENEWALS**

#### **Section 9.01 Time to Apply for Renewal License**

- 9.01.01 A License is immediately invalid upon its expiration. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate after its expiration.
- 9.01.02 A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than thirty days before the date of expiration of the current license. A Licensee who files a complete renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.
- 9.01.03 Notwithstanding the provisions of subsection 9.01.1 and 9.01.2, the Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the deadline for filing an application for renewal but the Local Licensing Authority shall not accept an application for renewal of a license filed more than ninety days after the date of its expiration. Reasonable grounds for waiving the renewal deadline must include that the Licensee lawfully may operate under its corresponding State license for the same activity at the same Location. A waiver will not be considered without filing a complete application and payment of all fees for renewal. Upon finding reasonable grounds exist for a waiver and its approval of an administrative extension of the expiring(ed) license, the Local Licensing Authority shall give written notice of the administrative extension. The renewal fee will be refunded if the administrative extension is not granted.
- 9.01.04 If a license has been administratively extended in writing, the Licensee may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.
- 9.01.05 The application for any renewal shall contain a duplicate of the application form(s) submitted to and accepted by the State Licensing Authority for the renewal of the license of the same type for the same activity at the same Location, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.
- 9.01.06 In the event a license is renewed after the expiration of the previous license, including by a late renewal application, the term of the renewed license shall run to the date one year following the date the previous license expired.
- 9.01.07 It is the obligation of the licensee to know all timing requirements under this Chapter and to submit their application on time. Nothing in this subsection shall give any licensee any claims to priority or exceptions for the application review process of the Local Licensing Authority.

## **Section 9.02 Action on Application for Renewal**

- 9.02.01 Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, there are allegations against the Licensee that could constitute Good Cause, or there are significant changes proposed to the licensed premises or operations that have potential impacts on the community, infrastructure or services, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.
- 9.02.02 The Licensing Agent or Local Licensing Authority may schedule a hearing on the application for renewal if it appears that one or more circumstances exist that may justify an adverse decision.
- 9.02.03 The Local Licensing Authority may refuse to renew a license if it finds one or more of the following:
- (1) The licensee or applicant has violated, does not meet, no longer meets, or has failed to comply with any of the terms, conditions, or provisions of this Chapter or of the Colorado Marijuana Laws;
  - (2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State Licensing Authority or of the Huerfano County Liquor and Marijuana Licensing Board as the Local Licensing Authority;

- (3) The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;
- (4) The Local Licensing Authority determines that the licensed premises have been inactive, without good cause, for a period of at least one year. It is the discretion of the Local Licensing Authority to determine whether a license has been active based upon the evidence and documentation submitted.

9.02.04 If the Local Licensing Authority finds after a hearing held pursuant to this section that there are grounds to refuse to renew, it may consider, except as otherwise required, the severity, frequency, and number of prior violations in deciding whether to refuse to renew the license.

9.02.05 If the Local Licensing Authority finds after a hearing held pursuant to this section that there has been a violation of a license condition, this Chapter or of the Colorado Marijuana Laws, the Local Licensing Authority has the discretion to apply a condition, fine, and/or suspension to the license in lieu of a refusal to renew the license. Any fines or suspensions shall be consistent with Section 5.12.100.H.

9.02.06 In the event that a hearing is scheduled, notice of such hearing shall be posted on the licensed premises for a period of 10 days prior to the hearing and the applicant shall be notified of such hearing at least 10 days prior to the hearing. Notification may be made electronically. No renewal application shall be denied without a hearing.

### **Section 9.03 Procedures for Action on Application**

To the extent applicable, the provisions of Part 7 shall govern processing and action on the application for renewal.

### **Section 9.04 Approval Criteria**

The approval criteria in Part 6 for approval of a new license shall be applicable to an application for a renewal.

## **Part 10. TRANSFERS**

### **Section 10.01 No Transfers or Assignment of Licenses**

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. Any attempt to transfer or assign a license in violation of these provisions voids the license.

### **Section 10.02 License Transfers Allowed**

10.02.01 A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within unincorporated Huerfano County, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Colorado Marijuana Code.

10.02.02 Transfer of a license to a different premises shall require the same public noticing and public hearing requirements that would apply to a new application and outlined in Part VII.

### **Section 10.03 License Transfer Application**

The application for any transfer shall contain a duplicate of the application form(s) submitted to and accepted by the State Licensing Authority for the transfer of the license, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

### **Section 10.04 Approval Criteria**

The approval criteria in Part 6 for approval of a new license shall be applicable to an application for a

transfer.

### **Section 10.05 Procedures; Action on Application**

The Local Licensing Authority may hold a public hearing on the application to transfer. To the extent applicable, the provisions of Parts 5 and 7 shall govern processing and action on the application for transfer.

### **Section 10.06 Period of Transferred License**

Approval of the transfer of a license has no effect on the license expiration date. A transferred license will continue for the balance of the license term set forth in the license.

## **Part 11. ENFORCEMENT**

### **Section 11.01 Inspection**

11.01.01 The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Colorado Marijuana Code, and the state administrative regulations promulgated pursuant thereto.

11.01.02 The Local Licensing Authority or its designees shall at all times during the Licensee's business hours, during times of apparent activity, or upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. The Local Licensing Authority may request to inspect during non-business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection.

11.01.03 Additionally, the County Weed Manager will have the right to inspect the property for noxious weeds at any time while a cultivation license is active. Upon the finding that any weeds need to be managed or remediated, such conditions may be added to the license by the Local Licensing Authority.

### **Section 11.02 Hearing; Suspension, Revocation of License**

11.02.01 A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

- (1) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (2) A violation of any County, state or federal law or regulation with respect to the ownership or operation of the licensed Establishment or with respect to the Licensed Premises - other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64- including, without limiting the foregoing, the failure of a retail marijuana cultivation facility to timely report or timely pay its Huerfano County marijuana excise tax;
- (3) A violation of any of the terms and conditions of the license;
- (4) A violation of any of the provisions of these Regulations;
- (5) The corresponding state license has been suspended or revoked by the State Licensing Authority; or
- (6) The Licensed Premises have been inactive or have not carried out any of those activities for which the license was issued for at least one year.

- 11.02.02 A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing;
- 11.02.03 Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.
- 11.02.04 If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of Section 11.02.1, these Regulations, the Colorado Marijuana Code, or an order of a state or local licensing authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.
- 11.02.05 In deciding whether a license should be fined, suspended, or revoked in accordance with this section, and in deciding what conditions to impose in the event of a suspension, if any, the Local Licensing Authority shall consider:
- (1) The nature and seriousness of the violation;
  - (2) Corrective action, if any, taken by the licensee;
  - (3) Prior violation(s), if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
  - (4) The likelihood of reoccurrence;
  - (5) All circumstances surrounding the violation;
  - (6) Whether the violation was willful;
  - (7) The length of time the license has been held by the licensee;
  - (8) The number of violations by the licensee within the applicable twelve-month period;
  - (9) Previous sanctions, if any, imposed against the licensee;
  - (10) Whether the licensee has a responsible vendor designation;
  - (11) Whether the licensee supports other local businesses including without limitation the display of local art or use of local ancillary businesses;
  - (12) Whether the licensee has contributed to or been involved in a charitable giving program; and
  - (13) Any other factor making the situation with respect to the licensee or the licensed premises unique.
- 11.02.06 Notice of suspension or revocation shall be given by mailing the same in writing to the licensee at the licensee's last address of record with the Local Licensing Authority.
- 11.02.07 Any recommended stipulations or agreements between the licensee and the Local Licensing Authority shall be presented to the Local Licensing Authority at the hearing. The Local Licensing Authority in its discretion may:
- (1) Accept such stipulation or agreement and dispense with the hearing;
  - (2) Allow limited testimony and evidence and, based thereon, accept such stipulation or agreement without a full hearing, or
  - (3) Reject the stipulation and require a full hearing.
- 11.02.08 Stipulations regarding violations of these Regulations may be executed by the Huerfano County Land use and Marijuana Compliance Inspector and a Licensee consistent with the following:

- (1) The Inspector may make determinations regarding the type of sanction to impose based upon the severity of the violation and in conformance with the following categories of violations:
  - a. 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 license suspension, a fine per individual violations of up to \$1000.00 for each separate 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. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative 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 or 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 System. The range of penalties for this category of violation may include license suspension, a fine per individual violation of up to \$5000 for each separate violation, and/or a fine in lieu of suspension of up to \$50,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
  - c. 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, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failure to report any transfer marijuana where reporting is required by Colorado law, knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to co-located Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with State or Local License Authority investigators during the course of inspections or investigations, failure to comply with any requirement related to the Transfer of Sampling Units, violations directly targeting minors, or packaging or labeling violations that directly impact patient or consumer safety. Violations of this nature generally have an immediate or potential negative 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 of up to \$10,000 for each separate 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) In no event shall the Inspector enter into stipulations under this subsection with a Licensee more than 3 times within a one-year period.
- (3) Nothing in this subsection shall preclude the Inspector from requesting that the Local Licensing Authority consider any alleged violation of this Chapter.

11.02.09 Requests to pay a fine in lieu of serving a suspension period shall be heard by the Local Licensing Authority before the suspension period is set to begin. Decisions regarding whether or not to approve requests to pay a fine in lieu of serving a suspension are within the discretion of the Local Licensing Authority.

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

11.02.11 11.02.5 The burden of proof is preponderance of the evidence and shall be on the person,

department or agency alleging that grounds exist for suspension or revocation of the license.

11.02.12 Any decision made by the Local Licensing Authority pursuant to this Section 11.02 shall constitute the final decision of the County, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

11.02.13 No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

**Section 11.03 These Enforcement Provisions are not Exclusive**

In addition to all other remedies available to the County under these Regulations or by other law, including the Colorado Marijuana Code, the operation of a Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the County in an action brought in a court of competent jurisdiction.

**Section 11.04 Deference to State Licensing Authority**

The Authority may defer to the state to enforce compliance with the requirements in the Colorado Marijuana Code.

**Part 12. FEES**

**Section 12.01 Fees Set by Resolution**

The Board of County Commissioners may revise application, license and operating fees by resolution. Fees shall be set with the objective of fully offsetting the cost to the County of administering these Regulations.

**Section 12.02 No Refund of Fees**

No fee will be refunded in whole or part even if: the application is withdrawn; the license is denied, transferred, revoked, surrendered, suspended or otherwise is not valid for a full year; or the Establishment ceases or never commences operations before expiration or other termination of the license or its approval.

**Section 12.03 Fees**

Application fees and all other fees necessary for the administration, regulation, and implementation of this Chapter are as follows:

Initial Operating Fee for any type of license:	\$2,000.00
Administrative Fee for a transfer or change of financial interest of any type of license:	\$200.00
Administrative Fee for a complete transfer of ownership or change of location:	\$1,000.00
Operating Fee for renewal of any type of license:	\$1,000.00
Administrative Fee for modification of premises:	\$250.00
Late Fee for renewal of any type of license:	\$500.00
Post-expiration Late Fee for renewal of any license:	\$1,000.00

**Section 12.04 Retail Marijuana Establishments - Application Fees**

Application fees for Retail Marijuana Establishment licenses are determined by the Colorado Marijuana Code and collected by the State Licensing Authority.

**Section 12.05 Operating Fees**

12.05.01 Initial operating fees and operating fees cover the costs of administering and enforcing these regulations; upon renewal of any type of license are established in the fee schedule in Section 12.03 and are due upon application for license or renewal.



- 12.05.02 No operating fee is due for any Retail Marijuana Establishment license that is being converted from a Medical Marijuana Establishment license, which means the Licensee surrenders the medical marijuana license when the retail marijuana license is issued.
- 12.05.03 If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant. ·

#### **Section 12.06 Late Filing Penalty**

If a complete application for a renewal of any type of license is not submitted until after the renewal application deadline, the renewal application must be accompanied by a late renewal penalty of \$500.00. If a complete application for a renewal license is not submitted until after the expiration of a license, the renewal application must be accompanied by a late renewal penalty of \$1,000.00.

#### **Section 12.07 Payment of Fees**

All fees are due and must be paid before a license of any type will be issued or effective.

**APPENDIX A**  
**WAIVER AND RELEASE OF LIABILITY**  
**AND**  
**AGREEMENT TO INDEMNIFY HUERFANO COUNTY**

Release of Huerfano County From Liability to License Applicant and Licensee

By applying for a license pursuant to the Colorado Marijuana Code (CRS §44-10-101, et seq.) and (if it is approved and issued) by accepting a license, from the Huerfano County Board of County Commissioners acting as the Huerfano County Local Licensing Authority, the applicant/licensee, and each of them, waives and releases Huerfano County, and its elected officials, employees, agents, insurers and attorneys, and each of them, from any liability for injuries, damages, costs and expenses of any nature whatsoever that result or relate to the investigation, arrest or prosecution of business owners, operators, employees, clients or customers of the applicant/licensee for a violation of state or federal laws, rules or regulations relating to marijuana.

Agreement to Indemnify Huerfano County

By applying for a license pursuant to the Colorado Marijuana Code (CRS §44-10-101, et seq.) and (if it is approved and issued) by accepting a license, from the Huerfano County Board of County Commissioners acting as the Huerfano County Local Licensing Authority, the applicant/licensee, and each of them, jointly and severally if more than one, agrees to indemnify, defend and hold harmless Huerfano County, and its elected officials, employees, agents, insurers and attorneys, and each of them, against all liability, claims and demands, of any nature whatsoever, including, but not limited to, those arising from bodily injury, sickness, disease, death, property loss and property damage, arising out of or in any manner related to the operation of the medical marijuana business that is the subject of the license.

THE UNDERSIGNED AGREES TO THE RELEASE AND AGREEMENT ABOVE.

Applicant Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

STATE OF COLORADO    ]  
  ] SS.  
COUNTY OF HUERFANO ]

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
by \_\_\_\_\_ in their capacity as \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

INTRODUCED, READ, and ORDERED PUBLISHED on first reading the 12<sup>TH</sup> day of SEPTEMBER 2023.

READ, ADOPTED, and ORDERED PUBLISHED by title only on this 10<sup>th</sup> day of OCTOBER 2023. This Ordinance will become effective 30 days after publication.



ATTEST:

\_\_\_\_\_  
County Clerk and Recorder and  
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS  
OF HUERFANO COUNTY, COLORADO

BY \_\_\_\_\_  
John Galusha, Chairman

\_\_\_\_\_  
Arica Andreatta, Commissioner

\_\_\_\_\_  
Karl Sporleder, Commissioner