21505272 8/3/2015 8:40 AM June Madrid
1 of 35 ODC R$0.00 D$0.00 Archuleta County

35

ORDINANCE 13-2015

AN ORDINANCE FOR THE REGULATION AND LICENSING OF MARIJUANA BUSINESS ESTABLISHMENTS

WHEREAS, the General Assembly enacted the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, " Colorado Medical Marijuana Code") to implement Amendment 20 to the Colorado Constituition authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of the Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of the Medical Marijuana Code, Colorado voters enacted Amendment 64 to the Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as "retail" marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted the Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, " Colorado Retail Marijuana Code") governing retail marijuana establishments and use as more particularly described in the Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of the Colorado Retail Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, the majority of voters in Archuleta County voting on the legalization of medical marijuana and retail marijuana have approved it, including approving Amendment 20 and Amendment 64; and

WHEREAS, pursuant to Amendment 64, and the Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), counties may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of the Retail Marijuana Code; and

Return: JUNE MADRID
ORDINANCES

21505272 8/3/2015 8:40 AM June Madrid
2 of 35 ODC R$0.00 D$0.00 Archuleta County

WHEREAS, the Archuleta County Board of County Commissioners is authorized by CRS §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 has determined that adopting regulations governing the time, place and manner of operating retail marijuana establishments in unincorporated Archuleta County will serve the health, safety and welfare of the community; and

WHEREAS, the Board has determined that the efficient administration of medical marijuana and retail marijuana laws and regulations encourages that it adopt a single set of regulations applicable to both medical marijuana and retail marijuana to the extent that doing so conforms to the requirements of the Medical Marijuana Code and the Retail Marijuana Code; and

WHEREAS, the Board has considered the testimony and opinions of persons interested in marijuana regulation at public work sessions and at public hearings; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Archuleta County Board of County Commissioners hereby adopts the Archuleta County Marijuana Licensing Regulations attached hereto, effective July 21, 2015.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that any Moratorium effecting is rescinded, effective July 1, 2014.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY:

Part I. GENERAL PROVISIONS

Section 1.01 Title

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

21505272 8/3/2015 8:40 AM June Madrid
3 of 35 ODC R$0.00 D$0.00 Archuleta County

Section 1.02 Authority

Section 14 of Article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, Article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the State Constitution, the General Assembly enacted the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules. The Colorado Medical Marijuana Code and the Medical Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, to enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules, the Colorado Retail Marijuana Code and the Retail Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. nonmedical) marijuana businesses within their jurisdictions.

Section 1.03 Purpose

1.03.1 The purpose of these regulations are to:

(1) Authorize licensing in unincorporated Archuleta County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Archuleta County by prescribing the manner in which marijuana businesses can be conducted in the county.

(2) Comply with the County's obligations under the Colorado Medical Marijuana Code;

(3) Comply with the County's obligations under Const. Art. XVIII, §16(5)(e);

(4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Medical Marijuana Code;

(5) Require that retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers and retail marijuana testing facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Retail Marijuana Code;

(6) Mitigate potential negative impacts that the Medical Marijuana and Retail Marijuana Establishments may cause on surrounding properties and persons;

(7) Regulate the conduct of persons owning, operating, and using Medical Marijuana and Retail Marijuana Establishments to protect the public health, safety and welfare;

(8) Establish a nondiscriminatory mechanism by which the County appropriately regulates the Location and operation of Medical Marijuana Establishments and Retail Marijuana Establishments within the County.

1.03.2 By enacting these Regulations, Archuleta 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. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Section 1.04 Effective Date and Applicability of Regulations

1.04.1 *Effective date.* Except as provided in section 1.04.3, as of July 1, 2012, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Medical Marijuana Code without first having obtained a local license under these regulations and a state license under state code. As of October 23, 2013, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Retail Marijuana Code without first having obtained a local license under these regulations and a state license under state code. Provided, further, this ordinance is necessary to the immediate preservation of the public health and safety, due to the immediate impact upon surrounding residences, churches and schools from the attraction of transients, parking and traffic problems, the potential for increased crime and noise, increased safety hazards to neighborhood children, and the potential for overall deterioration of neighborhood quality, and therefore shall become effective immediately upon adoption.

1.04.2 *Applications for local licenses.* The Authority shall receive and process all applications for medical marijuana centers and optional premises medical marijuana cultivation operations. The Authority shall accept and process applications for retail marijuana stores and retail marijuana cultivation facilities, license beginning on July 1, 2014.

1.04.3 *Pre-existing businesses.* Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the Colorado Medical Marijuana Code and the Archuleta County Land Use Code prior to the effective date in Section 1.04.1, may continue in business if, on or before January 1, 2014, the person submitted an application for local licensing under these regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked. Provided, further, any local license issued pursuant to the provisions of Ordinance No. 11-2013, an Ordinance Enabling the Operation of Certain Medical Marijuana Operations Pursuant to and Consistent with Article XVIII, Section 14 of the Colorado Constitution and Declaring effective Date which is valid and effective as of the date these Regulations are promulgated, shall be deemed to have been issued pursuant to these Regulations, and the provisions of these Regulations shall govern the expiration, renewal, revocation, suspension and transfer of such license.

1.04.4 *Dual Licenses.* Dual operation of a licensed medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility and any retail marijuana facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to persons younger than twenty-one years of age, except that Medical Marijuana products may be sold to a person at least eighteen years of age, as allowed by State law.

1.04.5 *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, Archuleta County zoning approvals, or Archuleta County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in unincorporated Archuleta County, all persons must obtain a license under these regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

1.04.6 These Regulations apply only to the unincorporated areas of Archuleta County, Colorado.

1.04.7 *Relationship to Ordinance No. 11-2013.* The provisions of this Ordinance shall control the operations of all Retail Marijuana and Medical Marijuana Establishments in Archuleta County. In the event of a conflict between this Ordinance and Ordinance No. 11-2013, this Ordinance shall control. Provided, further, Ordinance No. 11-2013 shall be repealed.

Section 1.05 Definitions

1.05.1 Unless otherwise expressly provided, the definitions in the Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to Medical Marijuana Establishments.

1.05.2 Unless otherwise expressly provided, the definitions in the Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to Retail Marijuana Establishments.

1.05.3 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," "Archuleta County Local Licensing Authority"* and *"Local Licensing Authority"* have the same meaning for the purposes of these Regulations.

(2) *"Church"* shall mean any tax-exempt building used for nonprofit purposes by a recognized and legally established sect for the purpose of worship, including educational buildings when operated by such church. The term "Church" includes a synagogue.

(3) *"Dedicated Public Parks"* shall mean a tract of land, other than a bike or pedestrian path, which has been dedicated by either a deed or plat which deed or plat has been accepted by an affirmative act of either a Federal, State, local or municipal government or a tract of land created or otherwise reserved by the independent action of any such Federal, State, local or municipal government regardless of size and maintained for the purposes of pleasure, exercise, amusement, or ornament which the public at large may resort to for recreation, air, and light because their purpose is to promote and benefit the health and pleasure of the people at large.

(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 Medical Marijuana Code, the Colorado Retail 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 without justification for at least one year.

(5) *"Licensed Day Care Facility"* shall mean any child care arrangement which is either required to be licensed by, or which is exempt from licensure in accordance with state or local law, including but not limited to, any family child care home, large family child care home, child care facility, school age child care center, specialized child care facility for the care of mildly-ill children, after school programs and child care facilities of a church or parochial school.

(6) *"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 Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. "Licensed Premises includes and off-premises storage facility owned, operated or used by the Licensee.

(7) *"Licensee"* means a person licensed pursuant to these Regulations.

(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 center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in the Colorado Medical 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) *"Retail Marijuana Establishment"* means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in the Colorado Retail Marijuana Code.

(13) *"Sale"* or *"Sell"* 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.

(14) *"School"* means a place of learning and includes the following: institutions of learning for minors, whether public or private, offering instruction in those courses of study required by and maintained pursuant to standards set by the Colorado Board of Education; nursery schools; kindergartens; elementary schools; middle or junior high schools; senior high schools; charter schools; special institutions of education; vocational or professional institutions of higher education; including community or junior colleges and universities.

Section 1.06 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, and State Administrative Regulations

1.06.1 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Medical Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Medical Marijuana Code and the state administrative regulations promulgated pursuant thereto, each 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.

1.06.2 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Retail Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, each as they are amended from time-to-time, are promulgated herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Retail Marijuana Establishments.

1.06.3 If there is a conflict between the provisions of these Regulations and the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the state administrative regulations promulgated pursuant to them, respectively, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Section 1.07 Licenses and Grant of Authority for Dual Licenses

1.07.1 The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

1.07.2 A person may operate a licensed Medical Marijuana Center, Optional 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.

1.07.3 The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

Section 1.08 County Reservations

1.08.1 Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.3-104.

1.08.2 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.

Section 1.09 Operation Limitations

1.09.1 Licensees shall be subject to the following additional operation limitations:

1.09.1.1 All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.

1.09.2 Each Medical and Retail Marijuana Establishment shall be operated from a permanent Location. No Medical or Retail Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed location and such delivery sales account for less than ten (10%) percent of the Medical Marijuana Establishments total sales.

1.09.3 A Medical Marijuana Center and Retail Marijuana Store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 7 p.m.

1.09.4 No Medical Marijuana Establishment or Retail Marijuana Establishment may use metals, butane, propane, or other solvent or combustible product, or produce combustible vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by the fire authority having jurisdiction over the premises. The Authority in its sole and unfettered discretion may, at any time, require an applicant or licensee to engage an Industrial Hygienist or other expert as designated by the Authority, at applicant or licensees cost, to review the manner in which butane, propane or other solvents or combustible products are stored, used or controlled on the licensed premises for the purpose of opining on the safety precautions in place. Such Industrial Hygienist or other expert may make recommendations which the County may require the applicant or licensee to implement.

1.09.5 No Retail Marijuana Establishment is permitted to sell marijuana to persons younger than twenty-one years of age and must post signage that clearly states: "You must be at least 21 years old to enter." No Medical Marijuana Establishment is permitted to sell marijuana to persons younger than eighteen years of age and must post signage that clearly states: "You must be at least 18 years old to enter" where any marijuana products are visible.

1.09.6 All retail marijuana labels must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21." All medical marijuana labels must contain the statement: "It is illegal to transfer or sell medical marijuana or medical marijuana products to anyone under the age of 18."

1.09.7 For dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.

1.09.8 All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.

1.09.9 All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.

1.09.10 All lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented and available for inspection.

1.09.11 Medical Marijuana Establishments and Retail Marijuana Establishments stores may not distribute to a consumer, marijuana or marijuana-infused products free of charge.

1.09.12 All Medical Marijuana Establishments and Retail Marijuana Establishments are subject to the requirements of the Archuleta County Land Use Regulations including Section 7 thereof, the Sign Regulations and the restrictions on advertising and marketing under the Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word "marijuana," "cannabis" or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.

1.09.13 A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business 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.

1.09.14 All Medical Marijuana Establishments or Retail Marijuana Establishments shall collect and remit all applicable State and County sales taxes in a timely manner. Their State and County license to engage in a Medical Marijuana Establishment or Retail Marijuana Establishment shall be posted along with the State sales tax license.

1.09.15 Any Medical Marijuana Establishments or Retail Marijuana Establishments within the County shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the Archuleta County Sheriff's department.

1.09.16 Medical Marijuana Establishments or Retail Marijuana Establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every 500 square feet of interior business space.

1.09.17All inventory, containing any form of marijuana, must be placed within a locked safe on the premises during hours that the business is closed. Five Hundred ($500) dollar retail value of marijuana shall be stored in a secured refrigerator which is maintained in a secure area of premises and approved by the State.

1.09.18 It shall be unlawful for any marijuana business to employ any person who is not at least 21 years of age.

1.09.19 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairman of the Authority available to be on the premises within thirty minutes of a demand for such person to be present being made at the establishment.

1.09.20 There shall be posted in a conspicuous location in each Medical Marijuana Establishment or Retail Marijuana Establishment a legible sign containing the following warnings:

(1) A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;

(2) A warning that possession and distribution of marijuana is a violation of federal law; and

(3) That smoking of marijuana in public is illegal.

1.09.21 Medical Marijuana Establishments and Retail Marijuana Establishments are required pursuant to the Colorado Retail Marijuana Code, the Retail Marijuana Rules, the Colorado Medical Marijuana Code or the Medical Marijuana Rules to maintain certain business records. Any and all such records required to be maintained shall be open at all times during business hours for inspection and examination by the County Administrator or his duly authorized representative(s). Provided, further, the County may require the licensee to furnish such information as it considers necessary for the proper administration of this Ordinance.

1.09.22.1 By accepting a Medical Marijuana Establishment license or a Retail Marijuana Establishment license, the licensee is providing consent to disclose any information received by the County including but not limited to information obtained pursuant to Section 1.09.21 above and further, if applicable, to include information about the number of patients and caregivers. Any records provided by the licensee that include patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.]* or other applicable law.

Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The County will not disclose documents appropriately submitted under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] as confidential documents to any party other than law enforcement agencies. Provided, further, all Medical marijuana establishments shall provide the Authority with a monthly patient & Plant Count which report shall exclude names but provide medical marijuana registration numbers and the number of plants associated with such patient.

1.09.22.2 The County may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the County, who shall likewise have access to all books and records of such licensee. The expense of any audit determined to be necessary by the County, shall be paid by the County; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes due to the County, the expense of the audit shall be paid by the licensee.

1.09.3 Acceptance of a Medical Marijuana Establishment license of any type, a Retail Marijuana Establishment license of any type or a Dual License from the County constitutes consent by the licensee, owners, managers and employees of such business to permit the County Administrator or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Section 1.10 Prohibited Locations

1.10.1 Medical Marijuana Establishments or Retail Marijuana Establishments shall only be allowed in the commercial or industrial zones.

1.10.2 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be licensed to operate at a Location that is within 1,000 feet from any school as "school" is defined in these Regulations, any licensed day care facility, church or dedicated public park, whether located within or outside the corporate limits of any municipality within the county. The permissibility of a location for the Medical Marijuana Establishment or Retail Marijuana Establishment shall be determined at the time of the submittal of the first, completed application to the Authority. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Medical marijuana business under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. Nothing within this section shall preclude the establishment of a public, private or charter school, licensed day care facility, licensed pre-school, church or dedicated Public Park within 1,000 feet of a pre-existing Medical Marijuana Establishment or Retail Marijuana Establishment.

1.10.3 Notwithstanding anything to the contrary herein, even if a Medical Marijuana Establishment or Retail Marijuana Establishment is located within a commercial or industrial zoned area such business must be no less than 250 feet from any Residential (R) or Planned Unit Development (PUD) zoned area; provided, however, the distance between the Medical Marijuana Establishment or Retail Marijuana Establishment and the area zoned as Residential (R) or Planned Unit Development (PUD) may be less than 250 feet if there exists between the Medical Marijuana Establishment or Retail Marijuana Establishment and the Residential (R) or Planned Unit Development (PUD) zoned area a United States Highway such as U.S. Highway 160.

1.10.4 The distances referred to in this Section 1.10.2 are to be computed by direct measurement from the nearest property line of the land used for either the public, private or charter school, licensed day care facility, licensed pre-school, church, dedicated Public Park or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which Medical Marijuana Establishment or Retail Marijuana Establishment products are to be sold.

1.10.5 No License may be issued to operate a Medical Marijuana Establishment or Retail Marijuana Establishment in a residential zone district as a "home occupation" under the Archuleta County Land Use Regulations.

Part II. LOCAL LICENSING AUTHORITY

Section 2.01 Establishment of Local Licensing Authority

The Archuleta County Local Licensing Authority shall be the Archuleta County Board of County 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 Archuleta County Local Licensing Authority shall have the authority to designate deputies from time to time.

Section 2.03 Powers

2.03.1 The Local Licensing Authority shall have the powers described in the Medical Marijuana Code and Retail 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.

2.03.2 The Local Licensing Authority shall serve as the entity for unincorporated Archuleta County that is responsible for processing applications submitted for a license to operate a marijuana establishment in the circumstances as provided in Colo. Const. Art. XVIII, §16(5)(e).

21505272 8/3/2015 8:40 AM June Madrid
14 of 35 ODC R$0.00 D$0.00 Archuleta County

Part III. LICENSES

Section 3.01 Medical Marijuana Licenses

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

(1) medical marijuana center;
(2) medical marijuana-infused products manufacturer; and
(3) optional premises cultivation operation.

Section 3.02 Retail Marijuana Licenses

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

(1) retail marijuana store;
(2) retail marijuana cultivation facility; and
(3) retail marijuana infused products manufacturer.

Section 3.03 Nature of Local License

A local license pursuant to these Regulations shall apply to a specific person, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person, a different Establishment, or different Premises except as provided by these Regulations. An application to "convert" a state license for a Medical marijuana Establishment to a Retail Marijuana Establishment license requires an application for a new license for purposes of these Regulations and, if the Medical Marijuana Establishment license being converted was issued by the Archuleta County, the surrender of that license to Archuleta County.

Section 3.04 Condition of Local License For Release of Archuleta County

It shall be a condition of all local licenses that the applicant/Licensee releases Archuleta County from liability to the applicant/Licensee and also agrees to indemnify, defend and hold harmless Archuleta County from liability arising from injuries and damages substantially in the form in Appendix A to these Regulations.

21505272 8/3/2015 8:40 AM June Madrid
15 of 35 ODC R$0.00 D$0.00 Archuleta County

Part IV. LICENSES REQUIRED

Section 4.01 Unlawful Acts

4.01.1 For any business, establishment, facility or activity which is required by the Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a current state license and a current license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.2 For any business, establishment, facility or activity which is required by the Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a state license and a license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.3 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. 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.

4.01.4 No Retail Marijuana Establishment license shall be effective before July 1, 2014.

Section 4.02 Coordination of Local and State Licenses

4.02.1 A Medical Marijuana Establishment or a Retail Marijuana Establishment licensed pursuant to these Regulations shall not operate unless it also has a valid license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code and Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. Provided, however, if a Medical Marijuana Establishment or a Retail Marijuana Establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days then the establishment may operate pending the issuance of a state license.

4.02.2 Upon denial of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be revoked.

4.02.3 If a 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 suspension or revocation of the State license.

4.02.4 Upon the surrender of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in the Order of suspension or revocation.

Section 4.03 Duration of Local Licenses

4.03.1 Except as provided in Section 4.03.2 below, any local license issued under these Regulations shall be valid for a period of one year from the date of issuance unless sooner 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 if deemed appropriate to synchronize the license periods of the license and the corresponding license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

4.03.2 A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license will assume the balance of the license term previously held by the surrendered Medical Marijuana Establishment license.

4.03.3 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 un-appealable, 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 date of issuance, the period the license is effective, the name of the Licensee, and the Premises licensed.

Part V. LICENSE APPLICATIONS

Section 5.01 Licensing Procedure.

5.01.1 General Procedure. The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code and any other State regulations not covered by these regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

5.01.2 Application forms.

5.01.2.1 All applications for medical marijuana center licenses; optional premises cultivation licenses; and medical marijuana-infused products manufacturing licenses, shall be made upon forms provided by the state and Local Licensing Authority and shall include the following supplemental materials: (1) identity of the owner of the property on which the premises is located; (2) a site plan of the premises; (3) a list of all other uses on the property; (4) the number of vehicle trips per day expected to be generated by the business; (5) the expected source and level of water use for the premises; (6) permits or other applicable documentation related to well use, septic system use, and water sanitation; (7) a copy of the State sales tax license for the business; (8) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (9) 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; (10) 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; (11) A plan sealed and stamped by a licensed mechanical engineer for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems mitigating odor leaving the premises. For Marijuana Enterprises 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; (12) 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; (13) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business; and (14) a detailed drawing, with scale of the floor plan.

5.01.2.2 All applications for retail marijuana store licenses, and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state or Local Licensing Authority and shall include: (1) a site plan of the premises; (2) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements; (3) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (4) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and location of required signage; (5) 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; (6) 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; (7) a copy of the State sales tax license for the business; (8) A plan sealed and stamped by a licensed mechanical engineer for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises; (9) 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; and (10) a detailed drawing, with scale of the floor plan.

5.01.2.3 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;

(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.

5.01.3 All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO2 gas will be used in the cultivation and the location of the generation, use and storage shall be identified on the site plans.

5.01.4 The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.

5.01.5 An applicant must have filed a complete application for a license of the same type for the same activity at the same location to the State Licensing Authority before it may apply to the Local Licensing Authority.

5.01.6 The applicant must 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.

5.01.7 By submitting a license application, the applicant and, if the applicant is not the owner, the owner of the Premises to be licensed, certify that the applicant has received permission from the Premises owner to allow inspections as may be required under the Medical Marijuana Code, Retail Marijuana Code, state administrative regulations promulgated pursuant thereto, or these Regulations for purposes of local licensing. In addition, the owner of the Premises and the applicant authorize (a) the Authority and its designee, (b) Archuleta County Development Services and other departments and agencies of the County, (c) in its jurisdiction, the Pagosa Fire Protection District or its designee, (d) in its jurisdiction, the Los Pinos Fire Protection District and its designee, and (e) the Archuleta County Sheriff and his designees, to enter upon and inspect the Premises for the purposes of implementing these Regulations. (f) San Juan Basin Health Department or its designee. 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.

5.01.8 Other County Departments. Upon receipt of an application under the Regulations, the Authority shall circulate the application to the Planning Department, Public Works Department, the Sheriff's Office, the Archuleta County Office of Emergency Management, the Archuleta County Treasurer, San Juan Basin Health District and the applicable Fire District. These departments or districts should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute such Department or District's approval of the license.

Section 5.02 Processing Applications

5.02.1 No application for a license for any type of Retail Marijuana Establishment may be submitted to the Local Licensing Authority before July 1, 2014.

5.02.2 Applications shall be submitted to the Authority in care of the Authority.

5.02.3 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.

5.02.4 Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes which agencies and departments shall submit their written findings and conclusions to the Authority no later than thirty days after the referral:

(1) Building Department: For determination of compliance with Archuleta County Building Regulations relative to structure features. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.

(2) Planning Department: For determination of compliance with Archuleta County Subdivision and Zoning Regulations.

(3) San Juan Basin Health Department: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.

(4) Any other County department deemed relevant in the circumstances: For determination of compliance with its regulations.

(5) Archuleta County Sheriff: For investigation as requested by the Local Licensing Authority.

(6) Archuleta County Office of Emergency Management:

(7) Pagosa Fire Protection District or the Los Pinos Fire Protection District as appropriate, for its determination of Fire Code compliance, if appropriate.

(8) 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 Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

5.02.5 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 a notice 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.

5.02.6 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. If Colorado Const. Art XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.

21505272 8/3/2015 8:40 AM June Madrid
21 of 35 ODC R$0.00 D$0.00 Archuleta County

5.02.7 The applicant shall be responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Medical Marijuana Code and the Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable.

Part VI. APPROVAL CRITERIA

Section 6.01 Basic Criteria

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 fee, license fee and operating fee have been paid;

(2) Development Services 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 Archuleta County Land Use Regulations;

(3) No zoning violations exist on the Premises;

(4) All proposed signs meet the requirements of the Archuleta County Land Use regulations;

(5) All proposed lighting meets the Archuleta County Land Use Regulations;

(6) Any structure in which the use is located has been inspected by the Archuleta County Building Official or her designee, the structure complies with all applicable Building Regulation provisions, and all necessary building permits have been obtained;

(7) The Premises complies with all applicable Site Development regulations including, but not limited to driveway and grading;

(8) The Premises has all required well and sanitation system permits or is adequately served by public water and/or sewer;

(9) The Premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;

(10) The Premises complies with the applicable Fire Code;

(11) All property taxes have been paid and no tax liens exist on the Premises;

(12) The applicant and Premises are in compliance with all other applicable County regulations;

(13) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and
(14) The proposed Licensed Premises are located in a Location permitted by these Regulations.

Section 6.03 Applicant Burden of Proof

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

Section 6.04 State License Must Be Issued First

Before a local license may be issued, the applicant must have applied for a State license of the same type for the same activity at the same Location as provided in the Medical Marijuana Code or Retail Marijuana Code, as applicable. 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. If Colorado Const. Art. XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, the criteria applicable pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable, shall be applicable to the extent deemed appropriate by the Local Licensing Authority.

Section 6.05 Additional Criteria for Cultivation Operations and Facilities

6.05.1 A Medical Optional Premises Cultivation License must be associated with either a Medical Marijuana Center or an Infused Product Manufacturer also licensed by the Authority and such Medical Optional Premises Cultivation Licensee may only provide their product to an entity licensed by the Authority or the Town of Pagosa Springs, Colorado. Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the Medical Optional Premises Cultivation License referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Medical marijuana center, ii) where the growing center and the Medical Marijuana Center have identical ownership, iii) where the operations are on the same or adjacent parcels for property tax purposes; and iv) where no less than seventy percent (70%) of the product grown under the optional premises cultivation operation license is made available for sale to the public through a facility licensed in Archuleta County.

6.05.2 Until such time as the Board of County Commissioners increases the number which increase may be accomplished by passing a Resolution to such affect, there shall be no more than four (4) Retail Optional Premises Cultivation Licenses issued in Archuleta County. License applications will be accepted for review on a "first come, first served" basis, commencing at 8:00 a.m. on the first Monday following the adoption of this ordinance. All other applications shall be processed in order of receipt. In the event that an application is denied by the Licensing

Authority, the Authority staff will process the next application in priority of time. Existing licenses shall count against the four (4) licenses such that two (2) new licenses are available.

Section 6.06 Additional Criteria for Medical Marijuana Center and Retail Marijuana Stores.

A Retail Marijuana Store must also have identical ownership with an Optional Premise Cultivation facility also licensed by the authority. Provided, further, on an annual basis, no less than seventy percent (70%) of the product available for sale to the general public must have begun as a seed or cutting and been harvested at the affiliated Optional Premise Cultivation facility, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

B. A Medical Marijuana Center must also have identical ownership with an Optional Premise Cultivation facility also licensed by the authority. Provided, further,, on an annual basis, no less than seventy percent (70%) of the product available for sale by the Medical Marijuana Center must have begun as a seed or cutting and been harvested at the affiliated Optional Premise Cultivation facility, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

Section 6.07 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 building permit 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.

Part VII. ACTION ON APPLICATION; HEARINGS

Section 7.01 Action on Applications

7.01.1 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

7.02.1 A public hearing may be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof.

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

7.02.3 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 phone number 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.

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

7.02.5 If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign posted as required in this Section 7.02 shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

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

7.04.1 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 Medical or Retail Marijuana Establishment proposed.

7.04.2 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 Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. 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.

7.04.3 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 1.08 of these Regulations.

Section 7.05 Decision on Application

7.05.1 The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

7.05.2 The Local Licensing Authority may approve an application subject to conditions related to these Regulations, the Medical Marijuana Code, the Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.

7.05.3 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 depositary of the US Postal Service, first class postage paid.

Section 7.07 Review of Local Licensing Authority Decision

7.07.1 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.

7.07.2 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 VIII. DUTIES OF LICENSEE

Section 8.01 Notice of Changes

8.01.1 A Licensee shall notify the Local Licensing Authority in writing of the name, address, and date of birth of a proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer, manager and employees must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before owning, managing, or associating with the operation. For a complete change of ownership, see Part X.

8.01.2 A Licensee shall report each transfer or change of financial interest in the license to the State and Local Licensing Authorities and receive approval prior to any transfer or change. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

8.01.3 A Licensee shall report any change of trade name to the Local Licensing Authority before using it.

Section 8.02 Possession of Licensed Premises

At all times, a Licensee shall possess and maintain possession of the Licensed Premises for which the License is issued by ownership, lease, or other arrangement suited for possession of the Premises for the duration of the License.

Section 8.03 Publicly Display Licenses

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

Section 8.04 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 Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable, 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. Copies of all such licenses issued by the State Licensing Authority shall be provided to the Authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the County has performed a background check and determined the preferred manager or employee to be temporarily acceptable then compliance with this Section 8.04 is extend for up to ninety (90) days from the start of their employment.

Section 8.05 Compliance with Laws

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, the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable; Archuleta County Building, Subdivision and Zoning Regulations; Archuleta County public health regulations; applicable fire code; and all other Archuleta County regulations applicable to the Establishment.

Section 8.06 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 Archuleta County Attorney within four business days 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 8.07 Notices to Public Safety Agencies

Before commencing operation, a Licensee shall notify the local firefighting agency and Archuleta 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. Before commencing operation, a licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO2 or CO2-generating is used on the Licensed Premises, the method and the location. A licensee shall promptly, within no more than one week, notify its local firefighting agency and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the Local Licensing Authority.

Part IX. RENEWALS

Section 9.01 Time to Apply for Renewal License

9.01.1 A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section 9.01. 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.

9.01.2 A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than sixty (60) days before the date of expiration of the current license. The Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement but the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration except as provided in Section 9.01.3. Reasonable grounds include that the Licensee has pending a timely-filed application for renewal of its state license. A Licensee who files a 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.

9.01.3 Notwithstanding the provisions of subsection 9.01.1 and 9.01.2, a Licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the State Licensing Authority, is pending, and the required fees have been paid. In those circumstances, the Licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the Licensee's late renewal application unless the State Licensing Authority summarily suspends or denies the license, in which case the Licensee must cease operation immediately.

9.01.4 The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

Section 9.02 Action on Application for Renewal

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, or there are allegations against the Licensee that would constitute Good Cause, 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.

Section 9.03 Procedures; Action on Application

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

Section 9.04 Approval Criteria

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

21505272 8/3/2015 8:40 AM June Madrid
29 of 35 ODC R$0.00 D$0.00 Archuleta County

Part X. 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. A license is valid only for the person specifically identified on the license and for the specific Location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Section 10.02 License Transfers Allowed

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 Archuleta County, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Section 10.03 License Transfer Application

The application for any transfer shall contain, at a minimum, 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 VI hereof 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 the extent applicable, the provisions of Parts V and VII 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 the same effect as approval of a new license and the transferred license shall be valid for a period of one year from the date of approval.

21505272 8/3/2015 8:40 AM June Madrid
30 of 35 ODC R$0.00 D$0.00 Archuleta County

Part XI. ENFORCEMENT

Section 11.01 Inspection

11.01.1 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 Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

11.01.2 The Local Licensing Authority shall at all times during the Licensee's business hours, 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. The Local Licensing Authority may request to inspect during non-business hours if the Licensee's normal business hours are inconsistent with typical business hours.

Section 11.02 Hearing; Suspension, Revocation of License

11.02.1 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;

(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 without good cause for at least one year.

11.02.2 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.

11.02.3 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.

11.02.4 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 Medical Marijuana Code or the Retail Marijuana Code and the state administrative Rules promulgated pursuant thereto, as applicable, 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.

11.02.5 The burden of proof shall be on the person, department or agency alleging that grounds exist for suspension or revocation of the license.

11.02.6 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.

11.02.7 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 Medical Marijuana Code, the Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, the operation of a Medical Marijuana Establishment or a Retail 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 Medical Marijuana Code, Retail Marijuana Code and state administrative regulations promulgated pursuant thereto.

Part XII. FEES

Section 12.01 Fees Set by Resolution

The Board of County Commissioners may revise application, license and operating fees by resolution.

Section 12.02 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Archuleta County Fee Schedule.

21505272 8/3/2015 8:40 AM June Madrid
32 of 35 ODC R$0.00 D$0.00 Archuleta County

Section 12.03 Retail Marijuana Establishments – Application Fees

At the time of adoption of this Ordinance, state law does not allow a County to collect an application fee for Retail Marijuana Establishments.

Section 12.04 Retail Marijuana Establishments – License Fees

The fees and charges shall be pursuant to the Archuleta County Fee Schedule.

Section 12.05 Retail Marijuana Establishments – Operating Fees

12.05.1 Operating fees shall be set with the objective of offsetting the cost to the County of administering these Regulations.

12.05.2 Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Archuleta County Fee Schedule, in addition to the application fee received by the Local Licensing Authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full license fee and operating fee is due in advance for any Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license.

No application, license or operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

12.05.3 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 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the Licensee qualifies for consideration of that late renewal pursuant to Section 9.01.3, the renewal application must be accompanied by a late renewal penalty as stated on the Archuleta County Fee Schedule.

21505272 8/3/2015 8:40 AM June Madrid
33 of 35 ODC R$0.00 D$0.00 Archuleta County

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. All funds must be remitted in the form of a business check or certified funds.

Section 12.08 Establishment of Community Marijuana Offset Impact Fund

By Separate Resolution of the Board of County Commissioners, a Community Marijuana Offset Impact Fund, which shall be funded by 10% of all Application, License or Operating or other fees received from Marijuana Establishments of all type, shall be established. The Community Marijuana Impact Fund shall be administered by the Board of County Commissioners after receiving recommendations from a panel, to be created by such establishing Resolution and such funds may be used to develop awareness within Archuleta County about Marijuana in general and programs available to help Archuleta County Citizens and children in general make positive lifestyle choices.

Part XIII. Repeal

Ordinance No. 12-2014 is hereby repealed and any and all ordinances and/or resolutions or parts of ordinances and/or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

PART XIV. Effective Date.

In the interest of immediate preservation of public health, safety and welfare, this ordinance shall become effective July 21, 2015.

INTRODUCED AND READ ON FIRST READING ON this 5th day of May, 2015 and which was published on April 23, 2015 in full in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Michael Whiting, Chairman

ARCHULETA COUNTY ORGANIZED MAY 20 1885 COLORADO

ATTEST:

June Madrid, County Clerk & Recorder

21505272 8/3/2015 8:40 AM June Madrid
34 of 35 ODC R$0.00 D$0.00 Archuleta County

ADOPTED ON SECOND AND FINAL READING ON this 21st day of July, 2015 and ordered published by reference to title only with amendments in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Michael Whiting, Chairman

ATTEST:

June Madrid, County Clerk & Recorder

ARCHULETA COUNTY ORGANIZED MAY 20 1885 COLORADO

21505272 8/3/2015 8:40 AM June Madrid
35 of 35 ODC R$0.00 D$0.00 Archuleta County

CERTIFICATE

I hereby certify that the foregoing Ordinance No. 13-2015 was introduced, read, and adopted on first reading at the regular public meeting of the Board of County Commissioners of the County of Archuleta on May 5, 2015, and the same was published in full in the Pagosa Springs Sun, a newspaper of general circulation published in Archuleta County, on April 23, 2015, and thereafter was adopted on second and final reading at a regular public meeting of the Board of County Commissioners of the County of Archuleta on July 21, 2015. Said Ordinance was published by title only with amendments on July 30, 2015. Said Ordinance went into effect on July 21, 2015.

Certified this 31st day of July, 2015

June Madrid

June Madrid, County Clerk & Recorder

ARCHULETA COUNTY ORGANIZED MAY 20 1885 COLORADO

Return: Tonya McCann, Paralegal 35
Archuleta County