

## Article III – RETAIL MARIJUANA

### Sec. 7-50. Applicability and Definitions.

- I. *License Required.* All retail marijuana licensees must comply with the regulations of this article, as well as all other applicable state laws, rules and regulations. A person must first obtain a license pursuant to this article, the Retail Marijuana Code, and the Retail Marijuana Rules prior to commencement of a retail marijuana operation.
  - B. *State license required.* All licenses, including renewals, issued by the local licensing authority are conditional on state approval of a license for the same proposed licensed premises.
    3. *New licenses.* No operations at the licensed premises shall be allowed until both the state and local licenses are issued, and the local license’s effective date shall match the effective date of the state license. If the state licensing authority denies an application or fails to issue a license within eighteen (18) months of conditional approval by the local licensing authority (unless such time period is extended for good cause pursuant to Section 7-55 below), the local license will be deemed revoked *ab initio* (i.e. from the beginning).
    4. *Renewals.* If the state licensing authority denies an application for renewal of a license, the local license will be deemed revoked as of the date the state licensing authority denies the application.
- II. *Definitions.* Unless otherwise defined in this article, the definitions set forth in subsection 16(2) of Article XVIII of the Colorado Constitution; the Retail Marijuana Code, C.R.S. § 44-12-103, as amended; and the Retail Marijuana Rules, as amended, shall apply to this article. The following terms shall have the meanings set forth below.
  - A. *Amendment 64* means Section 16 of Article XVIII of the Colorado Constitution.
  - B. *Chemical(s)* means chemical compounds or substances (including “organic” chemicals and substances) including, but not limited to, nutrients, fertilizers, pesticides, insecticides, herbicides or similar chemical products, ethanol (including “food grade” ethanol), CO<sub>2</sub>, butane, propane or any other chemical used in cultivation and processing of marijuana or cannabis.
  - C. *Child Care Facility* means any facility (except a foster care home or cradle care home, as those terms are defined at C.R.S. § 26-6-102, as amended) licensed by the Colorado Department of Human Services, pursuant to the Child Care Licensing Act, C.R.S. § 26-6-101 *et seq.*, for the care of children 18 years of age or younger, including but not limited to: day care centers, family child care homes, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, guest child care facilities, homeless youth shelters, neighborhood youth organizations, summer camps, day treatment centers, centers for developmentally disabled children, and

facilities providing twenty-four hour care for children, as each term is defined in the Child Care Licensing Act.

- D. *MED* means the Colorado Department of Revenue, Marijuana Enforcement Division.
- E. *Owner* means a natural person or closely held business entity that owns stock in a corporation, membership interests in a limited liability company or partnership interests in some form of partnership (including a joint venture), or a qualified limited passive investor.
- F. *Person* means a natural person, partnership, association, company, corporation, limited liability company or any other type of business organization, as well as a manager, agent, owner, director, officer or employee thereof; except, the term does not include any governmental organization.
- G. *Qualified limited passive investor* means a natural person who is a U.S. citizen and is a passive investor who owns less than a five percent (5%) share of stock, membership interests or partnership interests, as applicable, in a licensed retail marijuana establishment.
- H. *Retail Marijuana* is defined in the retail marijuana rules and is commonly referred to as “recreational marijuana.”
- I. *Retail marijuana code* means the Colorado Retail Marijuana Code, C.R.S. §§ 44-12-101 *et seq.*, as may be amended from time to time.
- J. *Retail Marijuana Rules* means the rules promulgated pursuant to the Retail Marijuana Code by the Colorado Department of Revenue, Marijuana Enforcement Division, 1 CCR 212-2, as may be amended from time to time.

**Sec. 7-51. Local Licensing Authority and Classes of Licenses.**

- I. *Local Licensing Authority; Staff.* The retail marijuana licensing authority for the County shall be the Board of County Commissioners.

The County licensing coordinator and other staff designated, from time to time, by the local licensing authority shall have the responsibility to serve the local licensing authority as its staff by accepting complete applications, establishing procedure, serving as public liaison, preparing reports and recommendations to the local licensing authority, inspecting businesses for compliance with the provisions of this Chapter 7, notifying the county attorney and local licensing authority of any suspected violations, and maintaining records regarding the performance of these duties. The County licensing coordinator is hereby designated as the person permitted to administratively approve applications where these regulations specifically delegate such authority to designated staff members.

If staff and an applicant or licensee are unable to agree about whether an application is deemed complete or whether a proposed modification, that has not already been made to the licensed premises, is subject to the requirements of subsection (II), (III), (IV) or (V) of Section 7-58, the licensee may request a determination from the local licensing authority at a public meeting regarding the matter.

- II. *Types of Licenses.* The local licensing authority may grant extensions of deadlines under this article for good cause shown and may issue the following local retail marijuana licenses:
  - A. Retail marijuana store;
  - B. Retail marijuana cultivation facility; or
  - C. Retail marijuana products manufacturing facility.

At this time, La Plata County is not imposing separate local licensing requirements on individuals and entities for a Retail Marijuana Testing Facility License; a Retail Marijuana Transporters License; a Retail Marijuana Operators License; a R&D co-location permit; or a Centralized Distribution Permit. The local licensing authority shall neither approve nor deny such license applications. For licensing purposes, such individuals and entities must only apply to and possess a valid and current license issued by the state licensing authority to operate in La Plata County.

- III. *Dual Licenses.* The dual operation of a medical marijuana establishment licensed under Article I of this chapter with its retail marijuana equivalent is permitted so long as both licenses are held by identical owners; all applicable state and local licenses have been issued; such licenses remain valid and active for both operations; and, both operations are in compliance with all applicable state and local requirements.
- IV. *Off-premises Storage.* A retail marijuana establishment that receives a license under this article may also be permitted for one (1) off-premises storage facility. For new retail marijuana establishments, any off-premises storage facility will be approved as part of the establishment's application for a new license as set forth in this article. For existing retail marijuana establishments, approval of an off-premises storage facility will be processed as a modification to the existing retail marijuana establishment's license as set forth in this article. All off-premises storage facilities licensed under this article shall meet all applicable requirements of this article, the Retail Marijuana Code and Retail Marijuana Rules. In addition, off-premises storage facilities must obtain all necessary land use and building code approvals prior to commencing operation. Approved off-premises storage facilities shall be considered a part of the licensed premises.

#### **Sec. 7-52. Prohibited Licensees.**

- I. A license shall not be issued to and shall not be held by:
  - A. A person who has not paid all of the required fees;

- B. A person whose history indicates that he or she is not of good moral character;
- C. An entity, whose officer, director, manager, member, partner or stockholder's history indicates that he or she is not of good moral character;
- D. A person employing, assisted by, or financed in whole or in part by any other person whose history indicates he or she is not of good moral character and reputation satisfactory to the local licensing authority;
- E. A person under 21 years of age;
- F. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, is delinquent on the payment of County property taxes. Local licensing authority staff will verify that property taxes are current as of the date an application is accepted and deemed complete and the date a license is to be issued and become effective;
- G. A person who:
  - 1. is currently subject to or has discharged a sentence for a conviction of a felony in the five (5) years immediately preceding his or her application date; or
  - 2. is currently subject to or has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten (10) years immediately preceding his or her application date or five (5) years from May 28, 2013, whichever is longer; except that the local licensing authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person was convicted of the offense on the date he or she applied for licensure.
- H. A Sheriff's Office employee, police officer, prosecuting officer, or a local jurisdiction employee;
- I. An employee of the state licensing authority who had regulatory oversight responsibilities for individuals, retail marijuana establishments and/or medical marijuana businesses licensed by the state licensing authority in the six (6) months immediately preceding the date of the person's application;
- J. A person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;
- K. A person who operates a retail food establishment or wholesale food establishment on the same premises;

- L. A person who is not in possession of the licensed premises throughout the duration of the license period;
- M. A person who fails to meet the qualifications for licensure that directly and demonstrably relate to the operation of a retail marijuana establishment; or
- N. A publicly traded company.

**Sec. 7-53. Candor; Duty to Report.**

- VII. *Understanding; Affirmation.* All applications or other requests submitted to the local licensing authority's staff must be materially complete and accurate. All individuals executing and submitting applications, statements, attachments and other supporting documentation shall be deemed to have submitted such documentation based on the understanding and affirmation that all of the information and documentation submitted is true and correct to the best of their knowledge and belief. Any false statements, misleading information, misrepresentations or failure to reveal information requested may be deemed sufficient cause for refusal to approve the application or request that was submitted and may further be grounds for enforcement action against and/or revocation of any license previously issued by the local licensing authority.
- VIII. *Charges; Convictions.* Any individual licensed under this chapter and any owner, officer, manager, operator, president or other executive officer of an entity licensed pursuant to this chapter, or who has a pending application pursuant to this chapter, must make written notification to staff of the local licensing authority of any felony or controlled substance criminal conviction or criminal charge within ten (10) days of such person's arrest, summons, or conviction.
- IX. *Revocation.* Any revocation of an owner's occupational license for the licensed retail marijuana establishment must be reported to the local licensing authority's staff within ten (10) days of such revocation.
- X. *Discipline.* Licensees shall notify the local licensing authority's staff within ten (10) days of the issuance of any discipline, or the acceptance of an assurance of voluntary compliance, by the state licensing authority or any other local jurisdiction against any of the licensees' medical marijuana or retail marijuana licensed premises.
- XI. *Loss of Qualifications.* Applicants and licensees shall notify the local licensing authority's staff within ten (10) days of any other event that renders the applicant or licensee no longer qualified to hold a license under these regulations.
- XII. *Discovery of Crime.* A licensee shall report any discovered plan or other action of any person to commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the licensed establishment to the local licensing authority's staff. A report shall be made as soon as possible after the discovery of

the action, but in no case later than fourteen (14) days after such discovery. Such information may be provided to local law enforcement agencies.

**Sec. 7-54. General Restrictions on Licensed Premises.**

- I. A premises licensed under this article shall not be:
  - A. Located in the same location as or within 1,000 feet of a location which an application for a license was denied within the two (2) years immediately preceding the date of the application because of the nature of the use or other concerns related to location;
  - B. Located within 1,000 feet of any public or private preschool or elementary, middle, junior high, or high school; and 500 feet of (i) the campus of any college, university, or seminary, or a child care facility; or (ii) a drug or alcohol rehabilitation treatment center.

For purposes of this provision, the distance shall be calculated by direct measurement between the closest point of the structure(s) enclosing the licensed premises and the closest point on the property line of the parcel upon which any of the above referenced uses are located. In the instance where the proximity restriction of a licensed marijuana business is encroached upon by one of the land uses identified above in this subsection, the marijuana business may be permitted to expand or be modified, pursuant to the applicable process, provided, that it was a legally established land use that preceded the protected encroaching use;

- C. Located within three (3) miles of the nearest incorporated portions of the towns of Ignacio and Bayfield at the time a complete application for a new license is accepted by the County. The measurement shall be a direct line between the closest point of the licensed premises and the boundary of the closest parcel incorporated in the towns of Ignacio or Bayfield;
- D. In violation of the land use code;
- E. In violation of the fire code;
- F. In violation of the building code;
- G. In violation of any relevant rules and regulations adopted by San Juan Basin Public Health ;
- H. In violation of any health standards adopted by either the state or local licensing authorities;
- I. In violation of the Colorado State Electrical Board rules and regulations;
- J. In violation of any relevant federal, state or local statutes, rules and regulations regarding wastewater disposal or wastewater treatments systems;

- K. Located on a parcel that is delinquent on the payment of County property taxes. Local licensing authority staff will verify that property taxes are current as of the date an application is accepted and deemed complete and the date a license is to be issued and become effective;
- L. Located in a building that has any portion of it classified as residential under the County building code; or
- M. Currently licensed as a retail food establishment or wholesale food registrant.

II. *Retail Marijuana Store Restrictions.*

- A. Retail marijuana stores may be open to the public only between the hours of 8:00 am and 8:00 pm. No sale or other distribution of retail marijuana and/or marijuana products to customers shall occur, and retail marijuana stores shall be closed to the public, outside of these hours.
- B. All sales and distribution of retail marijuana and marijuana products by retail marijuana stores to customers shall occur in person and only upon the licensed premises. The licensee along with any employee, agent and/or associate of the licensee is strictly prohibited from delivering any retail marijuana and/or marijuana product to any person at any other location. No sales shall be made by telephone, internet or other means of remote purchase.
- C. All displays, storage and sales of retail marijuana and marijuana products shall not be visible from the exterior of the business.
- D. The consumption of any alcoholic beverage, marijuana or marijuana product is strictly prohibited on the licensed premises at any time.
- E. All retail marijuana stores shall post a sign in a conspicuous location stating:
  - 1. IT IS ILLEGAL TO SELL OR TRANSFER MARIJUANA OR MARIJUANA INFUSED PRODUCTS TO ANYONE UNDER THE AGE OF 21
  - 2. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA OR MARIJUANA INFUSED PRODUCTS OUTSIDE OF COLORADO
  - 3. THE POSSESSION OF MARIJUANA IS STILL A CRIME UNDER FEDERAL LAW
- F. If a retail marijuana store is dually located with a medical marijuana center that allows medical marijuana patients under the age of 21 years to be on the premises, the retail marijuana store and the medical marijuana center must maintain complete and distinct physical separation of the licensed premises, including, but not limited to, separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

- G. A retail marijuana store is authorized to utilize a licensed retail marijuana transporter for transportation of its retail marijuana and retail marijuana products only so long as the place where transportation orders are taken and delivered is a licensed retail marijuana establishment. Nothing in this rule prevents a retail marijuana store from transporting its own retail marijuana and retail marijuana products.

III. *Retail Marijuana Cultivation Facility Restrictions.*

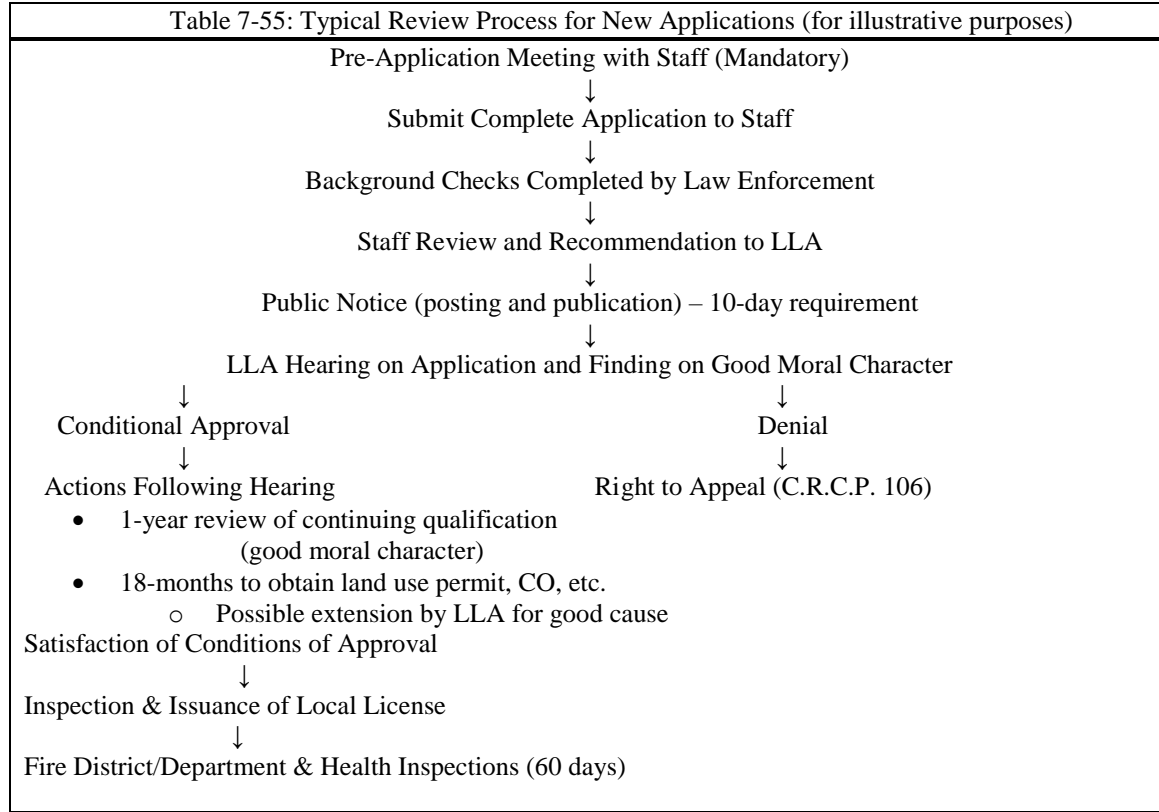
- A. If a retail marijuana cultivation facility is dually located with a medical marijuana optional premises, the licensee shall maintain visual and operational separation of the two licensed operations, including marijuana plants and marijuana inventory.
- B. If a retail marijuana cultivation facility shares its licensed premises with a licensed research business, a R&D co-location permit must first be obtained from the MED and the licensee must comply with all terms and conditions of the co-location permit.
- C. For every multiple of three (3) retail marijuana cultivation facility licenses in which a person is a direct beneficial interest owner, the person must also be a direct beneficial interest owner in at least one retail marijuana store.
- D. A retail marijuana cultivation facility is authorized to utilize a licensed retail marijuana transporter for transportation of its retail marijuana only so long as the place where transportation orders are taken and delivered is a licensed retail marijuana establishment. Nothing in this rule prevents a retail marijuana cultivation facility from transporting its own retail marijuana.

IV. *Retail Marijuana Products Manufacturing Facility Restrictions.*

- A. If a retail marijuana products manufacturing facility is dually located with a medical marijuana-infused products manufacturing facility, the licensee shall maintain visual and operational separation of the two licensed operations, including product inventory. Nothing in this rule prohibits a co-located medical marijuana-infused products manufacturer and a retail marijuana products manufacturing facility from sharing raw ingredients in bulk, for example, sugar; except, that the medical marijuana and retail marijuana may not be shared under any circumstance.
- B. If a retail marijuana products manufacturing facility shares its licensed premises with a licensed research business, a R&D co-location permit must first be obtained from the MED and the licensee must comply with all terms and conditions of the co-location permit.
- C. A retail marijuana products manufacturer is authorized to utilize a licensed retail marijuana transporter for transportation of its retail marijuana products only so long as the place where transportation orders are taken and delivered is a licensed retail marijuana establishment. Nothing in this rule prevents a retail marijuana products manufacturer from transporting its own retail marijuana products.



**Sec. 7-55. New Licenses.**



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

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

B. *Building plan.* The plans for the interior shall include a detailed floor plan layout drawn to scale (1/4 in = 1 ft.), which clearly reflects the uses, functions, and operations within the building. All drawings shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24” x 36” or larger. All drawings submitted to the County must match the drawings and diagrams submitted to the state or such plans will not be accepted.

The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems and all grow light configurations.

Where marijuana products are prepared, a detailed plan for the concentrate production and/or food preparation areas must be detailed separately, where applicable. For proposed facilities that are contained in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted.

C. *Location plan, plot plan.*

1. The location plan shall show all uses within 50 feet of the licensed premises; any public or private preschool or elementary, middle, junior high, or high school uses within 1,500 feet of the licensed premises; and any of the following uses that are located within 1,000 feet of the licensed premises: (i) the campus of any college, university, seminary, or a child care facility; or (ii) a drug or alcohol rehabilitation treatment center. The measurement shall be calculated by direct line measurement between the nearest point of the building containing the proposed licensed premises and the nearest property line on the neighboring lots or parcels on which any of the above referenced uses are located. If the premises is within 3.5 miles of the municipal boundaries of either the towns of Ignacio or Bayfield, the location plan shall also show the distance to the nearest incorporated portions of such town. The measurement shall be a direct line between the nearest point of the building containing the proposed licensed premises and the property line of the closest parcel within the incorporated area of the towns of Ignacio or Bayfield. The location plan shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger.
2. The plot plan shall show the location of the building or other structure(s) containing the proposed licensed premises and provide distances from such structure(s) to adjacent buildings and occupancies, property lines, and physical land features, such as streams, driveways, and roadways. The plot plan shall be professionally prepared by an architect, engineer or other drafting professional and submitted on paper 24" x 36" or larger.
3. Upon approval by the building department director or its designee, the plot plan and location plan requirements may be satisfied through the submittal of one (1) plan.

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

E. *Fingerprints.* Applications shall include a set of fingerprints for each of the applicant's individual owners (including individual owners of a closely held business entity) on forms provided by the state. Any owner whose fingerprints have been previously submitted to, and processed by, the local licensing authority within one (1) year of the date of application may request that staff use the results/reports of the most recent criminal history background check when processing the current application; provided, that all owners will be required to provide truthful information to the local licensing authority and its staff about any matters set forth in Section 7-55(II)(C) that occurred after the date of such reports. Further, the local licensing authority or its staff may still

request additional information from law enforcement agencies about an owner's conduct as part of its background investigation.

- F. *Proof of residency or citizenship.* Applications shall include evidence indicating that each of the applicant's individual owners (including individual owners of a closely held business entity) has been a resident of Colorado for at least one (1) year prior to the date of the application or is a United States citizen prior to the date of the application and has received a finding of suitability from the state licensing authority prior to filing its state application. Proof of such finding of suitability from the MED for out-of-state applicants must be provided with the local application, on forms acceptable to licensing staff. Findings of suitability provided to the local licensing authority within one (1) year from the date of issuance by the state licensing authority will be considered valid, unless otherwise revoked by the state licensing authority. Findings of suitability older than one (1) year will not be accepted.
  - G. *Corporate formation documents for the proposed licensee.* Applications shall include a certificate of good standing issued by the Secretary of State's office.
  - H. *Material safety data sheets.* Copies of MSDS (or SDS) sheets for all proposed chemicals and chemical mixtures to be stored or used on the premises, or a list of the same, will be provided to licensing staff upon request.
  - I. *Off-premises storage.* If an applicant is seeking approval of an off-premises storage facility, applications shall include a copy of the completed state forms. In addition, the application shall include documents demonstrating the right to possess the off-premises storage facility along with a building plan and location and plat plan specific to the off-premises storage facility, as described in subsection I.A., I.B. and I.C. of this section.
  - J. *Additional information.* Any additional information the local licensing authority or its staff may require to enable the local licensing authority to determine whether a license should be granted, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules, or any regulations under this article. The additional information must be provided to staff no later than seven (7) days after the request is made to the applicant, unless otherwise specified by the local licensing authority or staff. Failure to provide the requested evidence or information by the deadline may postpone the processing and review of the application and may be grounds for denial of the application.
  - K. *Waiver.* The local licensing authority may waive, at its sole discretion, any of the above submission requirements.
- II. *Application Review: Pertinent Factors, Background Investigations and Good Moral Character.* All applications for a new license shall be reviewed at a public hearing by the local licensing authority. Hearings shall be held no less than thirty (30) days after receipt of a complete application. Further, no public hearing will be scheduled or noticed until the results of the fingerprint-based criminal history records check completed by the Colorado

Bureau of Investigations, the Federal Bureau of Investigations and/or local law enforcement agencies are received by staff.

- A. *Local licensing authority considerations.* The local licensing authority may consider the facts and evidence adduced as a result of its background investigation, as well as any other facts pertinent to the type of license for which the application has been made. Such facts, include, but are not limited to, the number, type, and availability of retail marijuana establishments located in or near the premises under consideration, and other pertinent matters affecting the qualification of the applicant for the conduct of the type of business proposed, including but not limited to, the applicant's owners' good moral character.
- B. *Criminal justice records.* The local licensing authority may review criminal justice records furnished by a criminal justice agency, as well as other records that are relevant to a determination on the applicant's owners' good moral character. The local licensing authority may use the information resulting from such criminal history record checks to determine whether an applicant is qualified to hold or continue to hold a license pursuant to this chapter. If the local licensing authority considers the applicant's owners' criminal history records, it shall also consider information submitted by the applicant or its owners, including but not limited to, evidence of rehabilitation, character references, and educational achievements.
- C. *Good moral character.* In determining good moral character of any applicant under this article, the local licensing authority may consider, but is not limited to, the following factors:
  - 1. Any inconsistency between information provided by the applicant or its owners on the licensing application and the information that is discovered in processing the application.
  - 2. Any civil lawsuits that demonstrate a pattern of fraud and/or dishonesty or a lack of respect for legal obligations.
  - 3. The denial, suspension, loss or revocation of any professional or business license.
  - 4. Any violation(s) of Colorado Marijuana Enforcement Division rules for any marijuana business or establishment owned by the applicant.
  - 5. Any criminal conviction, including misdemeanor convictions, on the licensed premises by the applicant or its owners.
  - 6. More than one (1) misdemeanor conviction in one (1) year or three (3) or more misdemeanor convictions in the last five (5) years.
  - 7. Any felony conviction within the past fifteen (15) years or a drug-related felony at any time, unless such felony is no longer a criminal offense.

8. More than one (1) DUI offense in the last five (5) years and/or lack of follow through on Court-ordered requirements.

- D. *Results of the investigation(s)*. At least five (5) days prior to a public hearing, licensing staff shall provide the applicant with a written or electronic copy of the findings of the background investigation(s) and its recommendations to the local licensing authority.
- E. *Public hearing notice*. Notice for a public hearing shall be published and posted at the proposed site for the licensed premises not less than ten (10) days prior to a scheduled hearing. The applicant shall post the sign in a conspicuous place on the proposed premises that is clearly visible to the general public and the authority's staff shall publish notice of the hearing in a newspaper of general circulation in the County. Public notice given by publication and posting shall comply with the requirements found in C.R.S. § 44-12-302, as amended.
- L. *Conditional approval*. After a public hearing, the application may be conditionally approved if the applicant demonstrates that it has met the requirements set forth in Section 7-55(I) and that it and its owners are qualified to hold a license pursuant to the requirements of this Section 7-55(II).

Any conditionally approved license will be conditioned on: (1) proof of continuing good moral character, which will be reviewed within one (1) year of the date of conditional approval, as set forth in subsection F.1 below; (2) satisfaction of the requirements set forth in subsection F.2 below, within eighteen (18) months of the date of conditional approval, with regard to land use, building code, fire department, health department and electrical board approvals; and (3) satisfaction, within the time limits imposed by the local licensing authority, of any other conditions of approval that are reasonably related to the furtherance and protection of the health, safety and welfare of the general public and the neighborhood in which the licensed premises is to be located.

3. *Review of continued qualifications; good moral character*. If a license has not been issued to an applicant within one (1) year of the date of conditional approval, because the applicant has not satisfied all of the conditions of approval imposed by the local licensing authority (including those required by subsection F.2 below related to land use permits, certificates of occupancy, etc.), the local licensing authority will review an applicant's owners' good moral character and continuing qualifications to hold a license, pursuant to the requirements of Section 7-55(II), at a public meeting.

Satisfactory evidence of continued qualification and good moral character shall be a condition of the continued right to obtain the remaining approvals required under subsection F.2 below. Failure to satisfy this requirement may result in termination and revocation of conditional approval of a license.

Local licensing authority staff may, at any time, solicit comments from federal, state and local law enforcement agencies regarding any matters that are relevant to determine the applicant's owners' good moral character and continued qualifications

to maintain conditional approval for a license pursuant to this chapter. If the local licensing authority considers the information provided by federal, state and local law enforcement agencies, it shall also consider information submitted by the applicant or its owners, including but not limited to, evidence of rehabilitation, character references, and educational achievements.

4. *Land use, building code and ancillary approvals and inspections required.* Within eighteen (18) months of the date an applicant receives conditional approval for a license, the applicant will be required to obtain and provide the following information to local licensing authority staff:
  - a. *Proof of land use approval.* Written comments or a letter from the County planning department confirming that the proposed licensed premises has received land use approval and that all conditions of approval have been satisfied.
  - b. *Building code approval.* Written comments or a letter from the County building department confirming that the proposed licensed premises complies with all applicable building code provisions, has all necessary building permits, and has been issued a certificate of occupancy.
  - c. *Electrical installation comments.* Written comments, a letter or a copy of an approved inspection report from an inspector with the Colorado State Electrical Board (“CSEB”) that demonstrates the safety of the installation for the proposed premises. If an applicant is applying to add a new license to a premises already approved by the local licensing authority, and if no alterations or modifications are being proposed for such premises as part of the new application, the applicant shall verify, on its application, that no electrical changes have been made to the premises since the date of the last inspection conducted by the CSEB. In the alternative, an applicant may provide written comments from an electrician licensed in Colorado stating that, based on the last approved inspection report from the CSEB, no alterations or modification have been made to the licensed premises. A copy of the inspection report relied on by the applicant or electrician must be referenced in the verification or comments and provided to staff.

At a public meeting, the local licensing authority may, for good cause, extend the eighteen (18) month deadline for submittal of the information required in this subsection. Failure to obtain the needed approvals and provide satisfactory evidence of the same to the local licensing authority’s staff, or to obtain an extension from the local licensing authority at a public meeting, within eighteen (18) months of the date conditional approval is given, will result in automatic termination and revocation of such conditional approval.

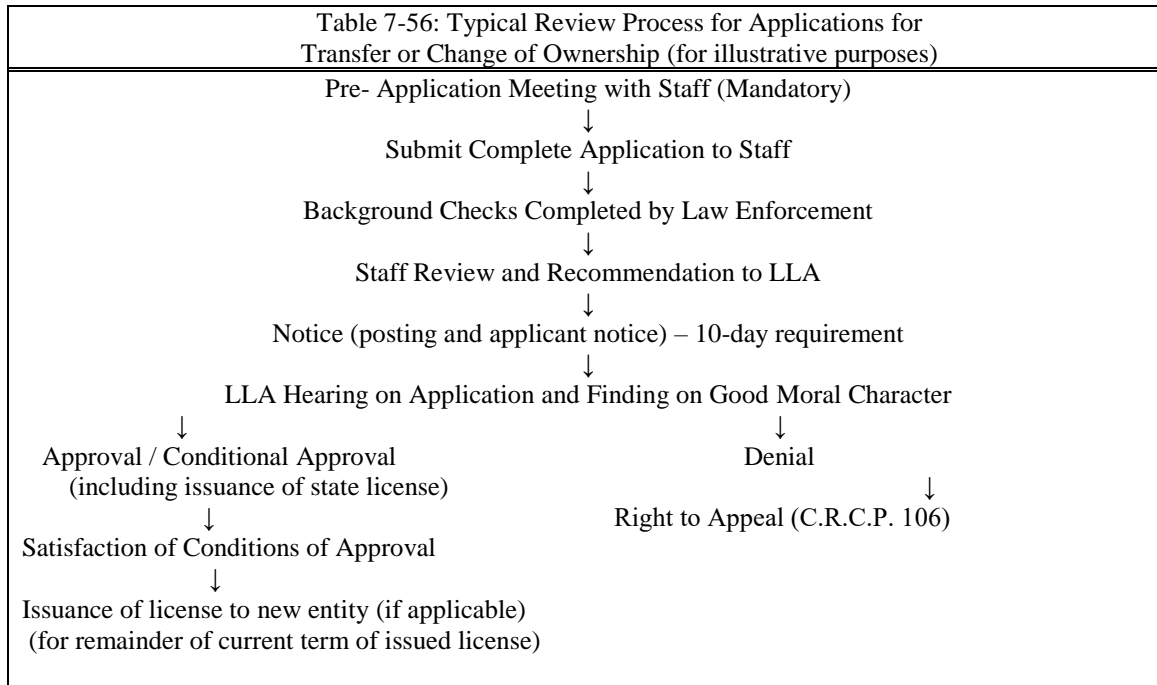
- G. *Denial.* After a public hearing, the application may be denied if the applicant, or its owners, does not meet, or has failed to comply with any of the terms, conditions or provisions of the Retail Marijuana Code, the Retail Marijuana Rules or any regulations under this article.

- H. *Written determination.* A written decision with findings supporting the conditional approval or denial of the application shall be issued within thirty (30) days after the public hearing. A copy of the decision(s) shall be sent by certified mail to the applicant at the address shown in the application.
- I. *Inspection prior to operation and issuance of license.* After an applicant satisfies all conditions of approval imposed by the local licensing authority, the license shall not be issued until the building in which business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment as is necessary to comply with the application provisions of this article. An inspection of the premises must be conducted by staff prior to issuance of the license to determine that the applicant has complied with the building plans, plot plans and sketches for the building, the requirements of this code and any other terms and conditions of approval imposed on the issuance of the license.
- J. *Inspection after operation and issuance of license.* Within 60 days after issuance of a license, the applicant shall provide staff with the following information:
3. *Fire authority/district comments.* This subsection (J)(1) is applicable to cultivation facilities, marijuana products manufacturing facilities and any other licensee that is dually located with either of the above listed licensees. Written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code. If an applicant is applying to add a new license to a premises already approved by the local licensing authority, and if no alterations or modifications are being proposed for such premises as part of the new application, written comments or a letter from the appropriate fire authority/district dated within twelve (12) months of the date of conditional approval of the license may be accepted to demonstrate compliance with the fire code.
  4. *Compliance with applicable health and safety regulations.* Proof of compliance with state health and safety regulations set forth in the Retail Marijuana Rules and any health standards adopted by the local licensing authority. If an applicant is applying to add a new license of the same type to a premises already approved by the local licensing authority (for example, a new optional premises cultivation license at a premises already licensed for cultivation or a new marijuana-infused products manufacturer license at a premises already licensed for production of marijuana-infused products), and if no alterations or modifications are being proposed for such premises as part of the new application, written comments or a letter from the County or its consultant dated within twelve (12) months of the date of conditional approval of the license may be accepted to demonstrate compliance with applicable health and safety regulations.

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

K. *License duration.* Unless revoked or suspended, the duration of all licenses issued by the local licensing authority shall run concurrently with the expiration date of the license issued by the state licensing authority. This means that once, and if, a conditionally approved license is actually issued, such license will expire on the same date as the current state license issued for the licensed premises. Renewal of the local license will be required within the timeframes set forth under Section 7-57 below (renewals).

**Sec. 7-56. Transfer or Change of Ownership.**



I. *Notice and/or Approval of Transfer or Change of Ownership.*

A. *Approval Required.* An application for a transfer or change of ownership must be submitted when a licensee proposes to: (i) transfer its license to a different entity (ex. transfer from abc corporation to xyz company), (ii) sell or otherwise transfer the licensed entity to new owners, or (iii) when the licensed entity proposes to admit new owners. The license holder and proposed transferee shall apply to and receive approval from the local licensing authority prior to the transfer or change of ownership of a license.

B. *Notice Required.* Except as set forth below, any redistribution of ownership interests in a licensed retail marijuana establishment among its existing owners shall be reported to staff at the time change of ownership forms (or similar other forms) are submitted to the state licensing authority. A copy of the applications or forms submitted to the state shall be provided to staff.

Further, in the event of the death, disqualification, divestment or other termination of an owner’s interest in a licensed retail marijuana establishment or the state licensing



authority's revocation of such owner's occupational license in the business, the licensed entity shall submit information to the local licensing authority's staff detailing and evidencing the planned redistribution of ownership among the entity's remaining owners; provided that such remaining owners' qualifications have previously been reviewed by the local licensing authority. If redistribution of ownership is contemplated among individuals whose qualifications have not previously been reviewed by the local licensing authority, then an application for transfer or change of ownership shall be submitted as set forth in this Section 7-56.

- II. *Application Requirements.* When an application for a transfer or change of ownership is required under this section, it shall be submitted to the local licensing authority's staff at least thirty (30) days prior to any requested transfer or change on current forms provided by the state, together with additional forms required by the County. Applications shall be materially complete and accurate and must include all application forms, attachments, checklists, verifications and supporting documents required by the County. The complete state application for a transfer or change of ownership must also be provided to the local licensing authority's staff. Staff may refuse to accept an incomplete application. Applications shall include the following documents:
- J. *Proof of right to possess premises.* When a licensee proposes to transfer its license to a different entity or to sell or otherwise transfer the licensed entity to new owners (as opposed to when it proposes to admit new members to an entity that already possesses the licensed premises), documents that demonstrate proof of possession of the licensed premises must be provided to staff. These documents may include a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.
  - K. *Purchase and sale agreement.* A copy of an executed document that evidences the proposed transfer and sale of the business or ownership interests in the business.
  - L. *Fees.* All applicable fees shall be submitted with the application.
  - M. *Fingerprints.* Applications shall include a set of fingerprints for each new individual proposed owner (including individual owners of a closely held business entity) on forms provided by the state.
  - N. *Corporate formation documents for the proposed licensee.* Applications shall include a certificate of good standing issued by the Secretary of State's office.
  - O. *Material safety data sheets.* Upon request, the applicant shall be required to provide copies of MSDS (or SDS) sheets, or a list of the same, for all chemicals and chemical mixtures.
  - P. *Proof of residency or citizenship.* Applications shall include evidence indicating that each of the proposed transferees (including individual owners of a closely held business entity) has been a resident of Colorado for at least one (1) year prior to the date of the

application, or is a United States citizen prior to the date of the application and has received a finding of suitability from the state licensing authority prior to filing its state application. Proof of such finding of suitability from the state licensing authority, on forms acceptable to staff, must be provided with the local application. Findings of suitability provided to the local licensing authority within one (1) year from the date of issuance by the state licensing authority will be considered valid, unless otherwise revoked by the state licensing authority. Findings of suitability older than one (1) year will not be accepted.

Q. *Additional information.* Any additional information the local licensing authority, or its staff, may require to enable the local licensing authority to determine whether an application for transfer or change of ownership should be approved, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules, or any regulations under this article. The additional information must be provided to the local licensing authority's staff no later than seven (7) days after the request is made to the applicant, unless otherwise specified by the local licensing authority or staff. Failure to provide the requested evidence or information by the deadline may postpone the processing and review of the application and may be grounds for denial of the application.

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

III. *Qualifications.* An application for transfer or change of ownership shall be considered pursuant to the requirements of this article, and the local licensing authority shall consider all pertinent matters affecting the qualifications of the proposed transferee in the same manner as applications for new licenses, including but not limited to review of the applicant's owners' good moral character. An application for transfer or change of ownership may be denied based on a finding of good cause.

IV. *Hearing.* A determination on an application for transfer or change of ownership shall take place after a duly noticed public hearing. Notice of the hearing shall be: (a) provided to the applicant at least ten (10) days prior to the hearing, and (b) posted on the licensed retail marijuana premises for a period of ten (10) days prior to the hearing, in the manner described in C.R.S. § 44-12-302(1), as amended. The public hearing will not be scheduled or noticed until the results of the fingerprint-based criminal history records checks completed by the Colorado Bureau of Investigations and the Federal Bureau of Investigations are received by staff.

V. *Effect of Pending Disciplinary/Enforcement Action.* If, at the time the application is submitted, the licensee is involved in an investigation or disciplinary/enforcement action conducted by either the local licensing authority, its staff, or the state licensing authority for a violation of these regulations, the Retail Marijuana Code or the Retail Marijuana Rules, the following may apply:

- C. The transfer or change of ownership application may be delayed or denied until the investigation or enforcement action is resolved; or
- D. The proposed transferee may be responsible for the action of the licensee, and subject to discipline based upon the same, if the local licensing authority approves the application.

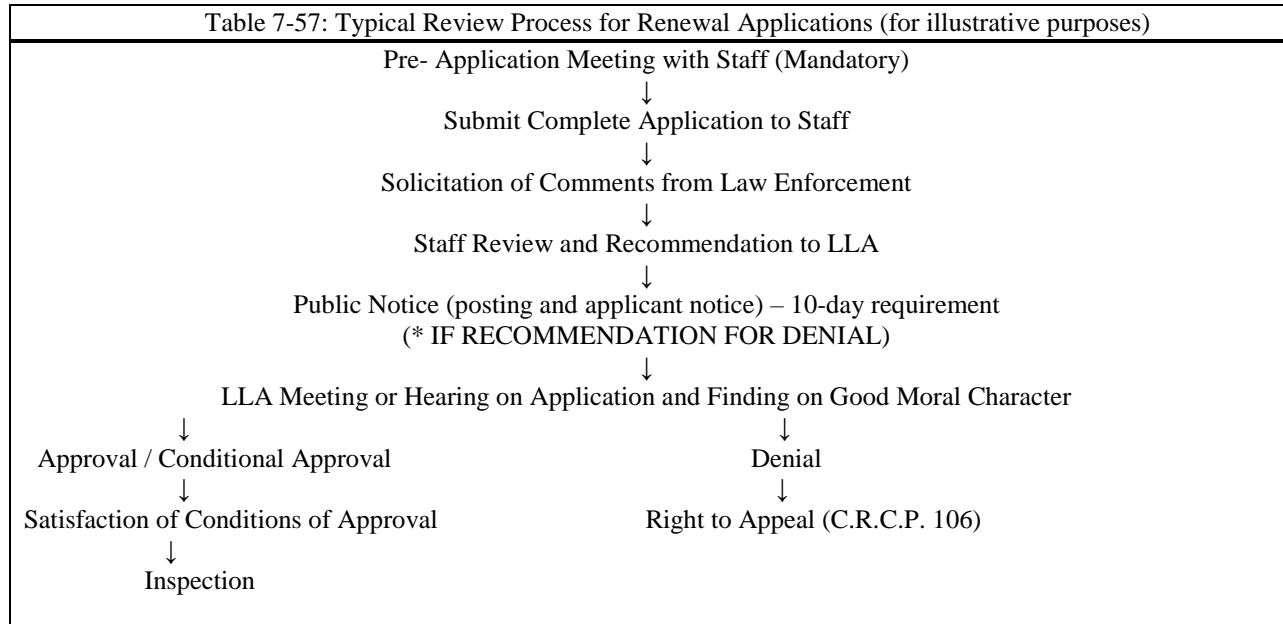
VI. *Change in Corporate Structure.* Notwithstanding the foregoing, if an entity desires to convert from one (1) form of entity into any other form of entity (ex. conversion of corporation to a limited liability company), pursuant to C.R.S. § 7-90-201, as amended, or other applicable law, without any other change of ownership, the entity must follow the procedures set forth in this subsection VI.

- C. *Application.* An application for change of corporate structure shall be submitted to the local licensing authority's staff at least thirty (30) days prior to any requested change on current forms provided by the state, together with any additional information and forms requested by the County. All application forms, checklists and supporting documents required by the state for a change of corporate structure must be provided to the local licensing authority's staff.

Staff or the local licensing authority may request any additional information the local licensing authority may require to enable it to determine whether the application should be granted, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules or any regulations under this article. The additional information must be provided to the local licensing authority's staff no later than seven (7) days after the request is made to the applicant, unless otherwise specified by the local licensing authority or staff. Failure to provide the requested evidence or information by the deadline may postpone the processing and review of the application and may be grounds for denial of the application.

- D. *Review.* Once a complete application is received by staff, the application may be approved administratively by staff designated by the local licensing authority if all requirements of approval are satisfied. Any application that is not administratively approved by designated staff will be reviewed and considered by the local licensing authority at a public meeting. An application may be denied by the local licensing authority for good cause.

**Sec. 7-57. Renewals.**



- I. *Renewal Applications.* An application for a renewal of a license shall be submitted on current forms provided by the County. Applications shall be materially complete and accurate and must include all attachments, checklists, verifications and supporting documents required by the County before the application will be accepted or considered. A complete copy of the state application must also be provided to staff at the time such application is submitted and accepted by the state licensing authority. Staff may refuse to accept an incomplete application. Applications shall include supporting documentation adequate to demonstrate the following:
  - A. *Proof of the right to possess the premises.* Documents that demonstrate proof of possession of the proposed premises may include a copy of a deed, lease, or contract that governs the terms and conditions of the occupancy of the premises for the period of the license.
  - B. *Building plan.* If modifications listed in Section 7-58 below have been made to the licensed premises since conditional approval of a license or the last renewal of the same, whichever occurred later, and an updated building plan has not already been provided to licensing staff, an updated building plan must be included as part of a renewal application. Further, even if no modifications to the licensed premises have been made, applicants will provide a building plan upon request of licensing staff.
  - C. *Fees.* All appropriate fees shall be submitted with the application.
  - D. *Corporate good standing for the licensee.* If the licensee is an entity, evidence of good standing in the State of Colorado shall be submitted.

- E. *Proof of state license for previous term.* Verification, by local licensing authority staff, that a license was issued and granted by the state licensing authority for the prior licensed term.
- F. *Proof of additional license.* For every multiple of three (3) retail marijuana cultivation facility licenses in which a person is a direct beneficial interest owner, the person must also be a direct beneficial interest owner in at least one retail marijuana store and provide evidence of the same.
- G. *Material safety data sheets.* An updated chemical list or copies of MSDS (or SDS) sheets for all chemicals and chemical mixtures to be stored or used on the premises will be provided to licensing staff upon request.
- H. *Compliance with applicable health and safety regulations.* Proof of compliance with state health and safety regulations as set forth in the Retail Marijuana Rules and any health standards adopted by the local licensing authority.
  - 1. *Inspection within past twelve months.* If an inspection of the licensed premises has been conducted within twelve (12) months of the deadline for filing the renewal application, written comments from the County or its consultant, as applicable, stating that such inspection is deemed sufficient for purposes of review of the current application, together with a copy of the most recent inspection report, shall be accepted to demonstrate compliance with the health standards.
  - 2. *No inspection within past twelve months; insufficient inspection.* If no inspection has been conducted within twelve (12) months of the deadline for filing the renewal application, or if the prior inspection is not deemed sufficient by the reporting agency, then an inspection demonstrating compliance with applicable health standards shall be required. If an inspection cannot be conducted prior to the date the local licensing authority considers the renewal application, through no fault of the applicant, comments will be accepted from the County or its consultant, as applicable, that an inspection has been scheduled. Evidence of satisfactory completion of an inspection, within a timeframe set by the local licensing authority, will be a condition of approval of any renewed license.
- I. *Fire authority/district approval.* This subsection (I) is applicable to cultivation facilities, marijuana products manufacturing facilities and any other licensee that is dually located with either of the above listed licensees. Applications shall include written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code.
  - 3. *Inspection within past twelve months.* If an inspection of the licensed premises has been conducted within twelve (12) months of the deadline for filing the renewal application, written comments from the appropriate fire authority/district stating that such inspection is deemed sufficient for purposes of review of the current application,

together with a copy of the most recent inspection report, shall be accepted to demonstrate compliance with the fire code.

4. *No inspection within past twelve months; insufficient inspection.* If no inspection has been conducted within twelve (12) months of the deadline for filing the renewal application, or if the prior inspection is not deemed sufficient by the appropriate fire authority/district, then an inspection demonstrating compliance with the fire code shall be required. If an inspection cannot be conducted prior to the date the local licensing authority considers the renewal application, through no fault of the applicant, comments will be accepted from the fire authority/district that an inspection has been scheduled. Evidence of satisfactory completion of an inspection, within a timeframe set by the local licensing authority, will be a condition of approval of any renewed license.

J. *Electrical approval.* If a modification to the licensed premises that has increased the electrical load of the licensed premises has occurred since conditional approval of a license or the last renewal of the same, whichever occurred last, applications shall include written comments, a letter or an inspection report from an inspector from the Colorado State Electrical Board (“CSEB”) that demonstrates the safety of the installation for the premises. Written comments, a letter or an inspection report from an inspector from the CSEB regarding the most recent inspection of the licensed premises that was conducted within twelve (12) months of the deadline for filing the renewal application shall be accepted to demonstrate the safety of the installation for the premises. In the alternative, if no alterations or modifications have been made to the premises in such twelve (12) month period (so that no inspection has been conducted by the CSEB), the applicant shall either (i) verify, on its application, that no electrical changes have been made to the premises since the date of the last inspection conducted by the CSEB. A copy of the inspection report relied on by the applicant or electrician must be referenced in the verification or comments and provided to staff.

K. *Additional information.* Any additional information or materials, including fingerprints, the local licensing authority or its staff may require to enable it to determine whether a license should be renewed, including but not limited to proof of compliance with the Retail Marijuana Code, the Retail Marijuana Rules or any regulations under this article. The additional information must be provided to the local licensing authority’s staff no later than seven (7) days after the request is made to the applicant, unless otherwise specified by the local licensing authority or staff. Failure to provide the requested evidence or information by the deadline may postpone the processing and review of the application and may be grounds for denial of the application.

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

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

the thirty (30) day requirement based on reasonable grounds. If a licensee timely applies for the renewal of an existing license, the local licensing authority staff may administratively continue the license beyond the expiration date while it completes the renewal licensing process.

- III. *Continuing Qualifications to Hold License; Good Moral Character Review.* As part of the consideration of each renewal application, the local licensing authority may review the good moral character and continuing qualification of an applicant's owners to hold a license pursuant to the requirements of Section 7-55(II). Local licensing authority staff may solicit comments from federal, state and local law enforcement agencies regarding any matters that are relevant to determine if a licensee is qualified to continue to hold a license pursuant to this article. If the local licensing authority considers the information provided by federal, state and local law enforcement agencies, it shall also consider information submitted by the applicant or its owners, including but not limited to, evidence of rehabilitation, character references, and educational achievements.
- IV. *Administrative Approval; LLA Review.* If no complaints have been filed against the licensee and there are no comments about any new matters or concerns from federal, state and local law enforcement agencies regarding the licensee, the licensing coordinator may administratively renew an application, without need for local licensing authority review, so long as the applicant agrees in writing to the proposed findings and conditions set forth by staff. If, however, there are any complaints against the licensee, matters or concerns disclosed by law enforcement, or if the licensing coordinator does not believe, for any reason, that a license should be approved without local licensing authority approval, including but not limited to disagreement over proposed findings and conditions, the application will be submitted to the local licensing authority for review and consideration.
- V. *Hearing.* The local licensing authority may hold a public hearing on a renewal application, but only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause for non-renewal. Notice of the hearing shall be: (a) provided to the licensee at least ten (10) days prior to the hearing, and (b) posted on the licensed retail marijuana premises for a period of ten (10) days prior to the hearing, in the manner described in C.R.S. § 44-12-302(1), as amended. The local licensing authority may deny an application based on a finding of good cause. Where no hearing is held, the local licensing authority may approve the renewal at a public meeting.
- VI. *Conditions.* The local licensing authority may place conditions upon a renewal license that are reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the licensed premises is to be located and of the general public.
- VII. *Late Filing.* If a license has been expired for no more than 90 days, a late renewal application may be filed upon payment of a non-refundable late fee of five hundred dollars (\$500.00). Upon payment of the fee, the licensee may continue to operate until a final decision is made on the renewal application by the local licensing authority. However, failure to demonstrate good cause for the late filing may be grounds for denial of the license

renewal. The local licensing authority or its staff shall not accept a renewal application that is filed more than 90 days past the license expiration date.

- VIII. *Failure to Renew License Prior to Expiration.* A license is immediately invalid upon its expiration if the licensee fails to file a late renewal application along with all required fees. If a licensee fails to renew its license prior to its expiration, the licensee shall cease all operations at the retail marijuana establishment, and licensing staff will notify the MED. If a former licensee files a renewal application more than 90 days after the date of expiration, the application will be treated and processed as a new license application and the licensee shall not operate the retail marijuana establishment until a new license is approved.
- IX. *License Duration.* Unless duly revoked or suspended, renewed licenses shall run concurrently with the license renewed by the state licensing authority, regardless of when the local license is issued. This means that such license will expire on the same date as the current state license issued for the licensed premises.

**Sec. 7-58. Modifications to Licensed Premises.**

- I. *Compliance Required.* After issuance of a license, the licensee shall not make any material change, alteration or modification of the licensed premises without complying with this Section 7-58. All applicable fees shall be submitted with the notices or applications required by this section. The fee required for modifications described in subsection (III) and (IV) below shall be the same. When prior notice of, or an application for, a proposed modification is required under these regulations, such notice or application shall be submitted on current forms provided by the County.
- II. *Modifications Requiring Notice to County After Modification.* While approval from the local licensing authority or staff shall not be required for the following physical changes, alterations or modifications to the licensed premises, licensees are required to provide notice to the staff of such modifications no later than fifteen (15) days after the date such changes, alterations or modifications are made. Additional documentation, such as an updated building plan or narrative may also be required, as set forth in Table 7-58 below or upon request of licensing staff. For purposes of this section, when an updated building plan is required, it will not need to be professionally prepared.
- D. *Approvals and/or permits from departments and outside agencies.* Changes, alterations or modifications described in this section may require permits and/or approvals from other County departments and outside agencies, and it shall be the licensee's obligation to obtain those necessary approvals and/or permits, as needed. If requested by the licensee, staff may provide information to the MED indicating that local licensing authority approval is not required for the changes, alterations or modifications described in this subsection (III) and that the County will neither approve nor deny such modification requests.



Further, the local licensing authority or its staff may notify other departments or outside agencies, and provide and share information with such department and agencies, about such changes, alterations or modifications.

- E. *Failure to comply with subsection.* Failure to provide notice to the local licensing authority's staff, and to provide additional documentation required under this section, shall be grounds for enforcement action. Further, failure to obtain any necessary approvals and/or permits required by County departments or outside agencies for such changes, alterations or modifications shall be a violation of these regulations and shall be grounds for enforcement action.
- F. *List of modifications.* Below is a list of the changes, alterations and modifications subject to the provisions of this subsection (III).
  - 5. Addition of bubble hash production at a licensed marijuana optional premises cultivation operation, when such addition does not require an application to be filed with the County planning department; or
  - 6. Any increase or decrease in the total physical size or capacity of the licensed premises. If any such increase or decrease is temporary in nature, the licensee shall indicate the anticipated beginning and ending date for such modification. Intermittent uses delineated on the building plan shall not constitute an increase or decrease in the size or capacity of the licensed premises; or
  - 7. Installation, alteration or replacement of electrical fixtures or equipment when such installation, alteration, replacement or increase requires a permit from the CSEB; or
  - 8. Increases to the number of marijuana plants beyond that permitted and approved by the state licensing authority.

Nothing in this provision shall be deemed to relieve a licensee from an obligation it may have to obtain approval for such changes from the state licensing authority or from any other agency, including but not limited to, local fire districts, San Juan Basin Public Health, County Building Department or County Planning Department.

- III. *Modifications Requiring Prior Notice and Approval by Applicable Departments and Agencies.* In order to comply with Section 7-54 and this Section 7-58, licensees shall be required to notify the local licensing authority's staff prior to making any of the following material physical changes, alterations or modifications to the licensed premises, including temporary changes, alterations or modifications. As part of the notification process, satisfactory evidence must be prepared by the licensee and provided to staff demonstrating that the licensee has obtained the necessary review and approval (if required) of the proposed modification from the state licensing authority ("MED"), County planning department, County building department, applicable fire authority/district, Colorado State Electrical Board ("CSEB"), San Juan Basin Public Health ("SJBPH"), the Colorado Department of Public Health and Environment ("CDPHE") and/or the Environmental Protection Agency ("EPA"). Any conditions or limitations of approval must be provided with the notification.

Staff may verify any or all of the information provided with the applicable department or agency.

2. *Notification of MED; Timeframe to Complete Modification.* If requested by the licensee, once all necessary approvals and/or comments from agencies other than the MED are obtained and provided to staff, staff may provide evidence of conditional approval of the proposed modifications to the MED. Only after evidence of MED approval for the same proposed modifications is provided to staff shall licensees be permitted to complete the conditionally approved modifications. Further, after all conditions of approval have been satisfied and modifications are permitted to commence, the licensee shall have one (1) year to complete the approved modifications. Failure to complete the modifications within such one (1) year timeframe, without approval of an extension for good cause, shall result in expiration and revocation of local licensing authority approval for the modification.
3. *Failure to comply with subsection.* Failure to provide the required notification and evidence of necessary approvals to staff prior to such changes, alterations or modifications shall be grounds for enforcement action. Further, failure to obtain necessary approvals from the state licensing authority, County planning department, County building department, applicable fire authority/district, CSEB, SJBPH , CDPHE and/or EPA prior to completing such alterations and modifications is a violation of this chapter and grounds for enforcement action.
4. *List of modifications.* Below is a list of the changes, alterations and modifications subject to the provisions of this subsection (III).

1. Addition of off-premises storage facility;

IV. *Modifications Requiring Application and Prior Approval of Local Licensing Authority.* Physical changes, alterations or modifications that materially or substantially alter the licensed premises or the usage of the licensed premises and require prior approval from the local licensing authority or its staff, include:

***B. [Reserved]***

In those instances where an application must be submitted to staff for consideration under subsection V of this section, staff designated by the local licensing authority may determine whether the proposed modification will meet all requirements of the Retail Marijuana Code, the Retail Marijuana Rules and all applicable regulations under this article. The local licensing authority or its staff may request that a fire authority/district, the County planning department, County building department, CSEB, SJBPH , CDPHE, EPA or any other relevant agency or department comment on or investigate and provide documentation or approval of the proposed modifications. Designated staff may conditionally approve and/or approve the modification application administratively, without the need for a meeting of the local licensing authority. If staff recommends denial of an application for modification or recommends conditions of approval that are not agreeable to the applicant, the licensee may

request a determination on its application from the local licensing authority at a public meeting.

If requested by the licensee, once the application has been conditionally approved, staff may provide evidence of conditional approval of the proposed modifications to the MED. Only after evidence of MED approval for the same proposed modifications is provided to staff shall licensees be permitted to complete the conditionally approved modifications. Further, after all conditions of approval have been satisfied and modifications are permitted to commence, the licensee shall have one (1) year to complete the approved modifications. Failure to complete the modifications within such one (1) year timeframe, without approval of an extension for good cause, shall result in expiration and revocation of local licensing authority approval for the modification. Further, licensees who have already received approval from the local licensing authority for a modification on the date these regulations become effective shall have one (1) year to complete the approved modifications. Failure to complete the modifications within such one (1) year timeframe, without approval of an extension for good cause, shall result in expiration and revocation of local licensing authority approval for the modification.

- V. *Other Modifications; Local Licensing Authority Review.* If the licensee proposes to make any physical changes, alterations or modifications and it is unclear to a licensee which category of alteration its proposed change comes under, the licensee shall contact staff to determine whether or not prior notice or an application is required prior to completing any contemplated change, alteration or modification. If staff and the licensee are unable to agree about whether a proposed modification, that has not already been made to the licensed premises, is subject to the requirements of this Section 7-58, the licensee may request a determination from the local licensing authority at a public meeting regarding the type of modification involved.

<b>Table 7-58: Required Approvals for Types/Categories of Modifications</b>	
<b>Category of Modification</b>	<b>Documents Required by Local Licensing Authority and County Department or Agency Approval Required</b>
<i>See Section 7-58 for full descriptions and requirements</i>	
<b>Notice After Modification; Evidence of Approval</b>	
Sec. 7-58(II)(C)(1) - Addition of bubble hash production	A narrative, updated building plan and evidence of approval from the MED must be provided to staff.
Sec. 7-9(II)(C)(2) - Increase/decrease in physical size or capacity	A narrative, updated building plan, evidence of issuance of a permit from the County planning department, if needed, and approval from the MED must be provided to staff.
Sec. 7-9(II)(C)(3) - Installation, alteration or replacement of electrical fixtures or equipment; <b>when permit required</b>	A narrative, updated building plan, evidence of permit issuance and inspection from CSEB, and approval from MED must be provided to staff. If no changes to the building plan are required, then no building plan must be provided, but the licensee must verify this information in a written statement.

<b>Table 7-58 CONT'D: Required Approvals for Types/Categories of Modifications</b>	
<b>Category of Modification</b>	<b>Documents Required by Local Licensing Authority and County Department or Agency Approval Required</b>
<i>See Section 7-58 for full descriptions and requirements</i>	
<b>Notice After Modification; Evidence of Approval</b>	
Sec. 7-9(II)(C)(4) - Increasing number of marijuana plants or patients	A narrative and evidence of approval from the MED must be provided to staff.
<b>Prior Notice/Agency Approval</b>	
Sec. 7-9(III)(C)(1) - Off-premises storage	A narrative, updated building plan, and evidence of approval and/or issuance of a permit and inspection must be provided to staff from the following departments and agencies: County planning department; County building department and the MED.
<b>Application to LLA</b>	<i>[Reserved]</i>
KEY: CSEB = Colorado State Electrical Board / CDPHE = Colorado Department of Public Health & Environment / EPA = Environmental Protection Agency / LLA = Local Licensing Authority / LPC = La Plata County / MED = Colorado Marijuana Enforcement Division / SJBPH = San Juan Basin Public Health	

**Sec. 7-59. Change of Location.**

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

**Sec. 7-60. Compliance with State Laws and Rules.**

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

**Sec. 7-61. Occupational Licenses.**

*Reserved.*

**Sec. 7-62. Inspections.**

The licensed premises, including but not limited to any places of storage where retail marijuana is grown, stored, cultivated, sold, processed or dispensed, shall be subject to inspection by the local licensing authority, its staff, investigators and designees, including but not limited to code enforcement staff, County building and planning department staff, local fire districts and San

Juan Basin Public Health , during all business hours and other times of apparent activity for the purpose of inspection or investigation. Upon request, the applicant or licensee shall timely provide the local licensing authority and its staff with records related to the business. If any part of the licensed premises consists of a locked area, such area shall be made available for inspection without delay upon request by any authorized representative of the local licensing authority. Failure to make records related to the business or a locked area of the licensed premises available for inspection upon request shall constitute a violation of this article and such violation may, in the discretion of the local licensing authority, form or constitute a basis for summary suspension or other enforcement proceedings against the licensee. This section shall not limit any inspection authority authorized under law.

**Sec. 7-63. Enforcement.**

I. *Unlawful Acts.*

- A. It is unlawful and a violation of this article and of the terms and conditions of every license issued pursuant to this article to cultivate, process, manufacture, distribute, store, test or sell marijuana, except in strict compliance with this article, the Retail Marijuana Code, the Retail Marijuana Rules and Amendment 64.
- B. It is unlawful for any person to engage in any form of business or commerce directly involving the cultivation, processing, manufacturing, distribution, storage, testing or sale of retail marijuana other than those forms of business and commerce that are expressly contemplated by this article, the Retail Marijuana Code, the Retail Marijuana Rules, and Amendment 64.

II. *Investigation.* Investigations shall be initiated by local licensing authority staff or the County code enforcement officer after receiving a complaint or observing potential noncompliance. If the investigation demonstrates that probable cause of a violation (committed by the licensee, its owners, agents or employees) of this article, the Retail Marijuana Code, or the Retail Marijuana Rules may exist, then a written summary of the facts and the supporting evidence shall be prepared by staff and a warning, notice of violation or notice to appear will be sent to the licensee, as appropriate.

III. *Compliance.* When an alleged violation occurs that does not affect public safety, staff shall send a written warning or notice of violation to the licensee, by mail or email, setting forth the violations discovered during their investigations. The licensee shall have ten (10) days from the date of notice to contact County staff and arrange a date and time to meet to discuss the violations and proposed remedies to such violations. For purposes of this provision, the notice of violation shall be deemed received on the date it is emailed to the licensee at the email address on file with the County (a delivery receipt is required), upon hand delivery, or five (5) days after it is mailed by first class, U.S. mail.

At its initial meeting, staff will work with licensees to establish timelines within which remedies to violations must be completed. Every licensee shall diligently pursue all actions necessary to bring its license and licensed premises into compliance with this article, the

Retail Marijuana Code and the Retail Marijuana Rules. If a licensee fails to diligently pursue and complete required remedies within the timeframes established by staff, staff may pursue an enforcement action pursuant to subsection IV below.

IV. *Enforcement Action.*

- A. *Motion for imposition of sanctions.* If a licensee fails to diligently pursue and complete required remedies necessary to bring its license and licensed premises into compliance with this article, the Retail Marijuana Code and the Retail Marijuana Rules within the timeframe established by staff pursuant to subsection III above, staff shall prepare a notice to appear, detailing the violations and failure of the licensee to correct the same, and shall deliver the same to the licensee, by mail or electronic transmission, and local licensing authority.
- B. *Response.* A licensee shall file a written response with staff within thirty (30) days of the date a notice to appear is sent, by mail or electronic transmission, to the licensee. If a licensee fails to file a written response within this time frame, the local licensing authority may enter a default judgment against the licensee at its next regularly scheduled meeting.
- C. *Hearing.* After hearing testimony at a public hearing for which the licensee was given notice to appear, the local licensing authority may issue a verbal or written warning, a fine, a fine in lieu of suspension, or suspend or revoke a license for violation of this article, the Retail Marijuana Code, the Retail Marijuana Rules, or provisions and conditions of the license.

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

- V. *Summary Suspension.* A license may be summarily suspended by the local licensing authority without notice to the licensee when the local licensing authority finds, by objective and reasonable grounds, either that (i) the public health, safety or welfare imperatively requires emergency action, or (ii) the licensee, its owners, agents or employees have either willfully and deliberately violated this article, the Retail Marijuana Code, the Retail Marijuana Rules or provisions of the license.

A license may be summarily suspended only after delivery of a written presentation of findings to the local licensing authority following a full investigation by staff or the code enforcement officer. A hearing on suspension shall be held and determined promptly after a summary suspension occurs. The local licensing authority may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary for determination at a hearing. The licensee shall be given the opportunity to cross-examine those testifying, as well as provide evidence in defense or to mitigate a penalty.

After hearing testimony at a public hearing, the local licensing authority may confirm and continue the suspension, issue a verbal or written warning, a fine, a fine in lieu of suspension, or revoke a license for violation (by the licensee, its owners, agents or employees) of this article, the Retail Marijuana Code, the Retail Marijuana Rules or provisions and conditions of the license. A suspension shall not be longer than six (6) months. Notice of a suspension shall be posted on the premises in accordance with the requirements of the Retail Marijuana Code and Retail Marijuana Rules.

- VI. *Notice; Sanctions.* Notice of a suspension, revocation, fine or other sanction shall be mailed, by certified mail, to the licensee at the address contained in the license and shall be deemed received three (3) days from the date of mailing. A suspension shall not be longer than six (6) months. Notice of a suspension shall be posted on the premises in accordance with the requirements of the Retail Marijuana Code and Retail Marijuana Rules.
  
- VII. *Penalty Schedule.* The penalty schedule is a framework providing guidance to the local licensing authority as to the range of violations, suspension description, fines, and mitigating and aggravating factors considered in enforcement actions. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis. The local licensing authority shall make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:
  - A. *License violations affecting public safety.* This category of violation is the most severe and may include, but is not limited to, wastewater discharge in violation of applicable permits and federal, state and local regulations that poses health hazards to water systems, groundwater or the public; production of infused-products with chemicals or chemical compounds prohibited by federal, state or local jurisdictions; retail marijuana sales to persons under the age of 21 years; failure to cooperate with law enforcement or licensing or code enforcement staff and investigators during the course of a local licensing authority investigation; consuming marijuana on the licensed premises; retail marijuana sales in excess of the relevant transaction limit; permitting the diversion of retail marijuana outside the regulated distribution system; possessing retail marijuana or retail marijuana product obtained from outside the regulated distribution system or from an unauthorized source; failure to continuously escort a visitor in a Limited Access Area; violations related to dually located medical marijuana businesses and retail marijuana establishments; 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 comply with any requirement related to transfer of sampling units; or packaging or labeling violations that directly impact consumer safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the state licensing authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.

- B. *License violations.* This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, failure to obtain prior approval of changes or transfers of ownership, other than minor changes; failure to provide notification, with evidence of necessary approvals, to the County for modifications described in Section 7-58(IV); failure to obtain local licensing authority approval for modifications set forth in Section 7-58(V); failure to comply with the requirements and conditions of approved land use permits that do not directly impact public safety; packaging or labeling violations that do not directly impact consumer safety; failure to maintain minimum security requirements; failure to keep and maintain adequate business books and records; or minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension, and/or license revocation depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the state licensing authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.
- C. *License infractions.* This category of violation is the least severe and may include, but is not limited to, failure to display required badges failure to provide the required notice and documents to the County in the time required under Section 7-58(III); or failure to notify staff of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension depending on the mitigating and aggravating circumstances. Any fine levied under this category shall not exceed fifty percent (50%) of the maximum fine that the state licensing authority can levy for the same or similar violations. Sanctions may also include restrictions on the license.
- D. *Mitigating and aggravating factors.* The local licensing authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:
1. Any prior violations that the licensee has admitted to or was found to have engaged in;
  2. Action taken by the licensee to prevent the violation (e.g., training provided to employees);
  3. Licensee's past history of success or failure with compliance checks;
  4. Corrective action(s) taken by the licensee related to the current violation or prior violations;
  5. Willfulness and deliberateness of the violation;
  6. Likelihood of reoccurrence of the violation;



7. Owner, operator or manager is the violator or has directed an employee or other individual to violate the law; or
8. Participation in state-approved educational programs related to the operation of a retail marijuana establishment.

VIII. *Fine in Lieu.* If the local licensing authority suspends a license for fourteen (14) days or less, the licensee may, before the date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. The local licensing authority may stay the proposed suspension, investigate the matter, and may grant the petition if it makes a finding that the factors set forth in C.R.S. § 44-12-601(3)(a) are satisfied. The fine accepted shall be not less than \$500.00 and no more than \$100,000.00. The fine shall be based on the costs and expenses for the County's investigation and hearing, as well as a penalty that is supported by the record. Upon payment of the fine, the local licensing authority shall enter a further order permanently staying the imposition of the suspension.

IX. *Illegal Controlled Substance.*

- A. The local licensing authority's order may specify that some or all of the licensee's marijuana or marijuana-infused product is not retail marijuana or a retail marijuana-infused product and is an illegal controlled substance. The order may specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as retail marijuana or a retail marijuana-infused product.
- B. The local licensing authority order may direct the destruction of any such marijuana and marijuana-infused products. If destruction is ordered, the licensee may:
  1. Voluntarily surrender to the local licensing authority all of the marijuana or marijuana-infused products declared an illegal controlled substance by the order;
  2. File a petition for a stay of the local licensing authority order with the La Plata County District Court within fifteen (15) days of the date of the issuance of the local licensing authority order; or,
  3. If the licensee does not either (1) voluntarily surrender all of the marijuana or marijuana-infused products declared an illegal controlled substance by the local licensing authority order as set forth in this section; or, (2) properly seek a stay of the local licensing authority order as set forth in this section, the local licensing authority and its representatives and designees shall have the authority to enter upon the licensed premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the local licensing authority order.
- C. The local licensing authority shall not carry out destruction until at least fifteen (15) days following the issuance of the order has passed and the District Attorney for the 6<sup>th</sup> Judicial District has been notified of the impending destruction. The local licensing

authority will not carry out the destruction if the District Attorney for the 6<sup>th</sup> Judicial District has notified the local licensing authority that the marijuana or marijuana-infused products declared an illegal controlled substance constitute evidence in a criminal proceeding and it should not be destroyed.

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

**Sec. 7-64. Decision and Appeal.**

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

**Sec. 7-65. Fees.**

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

**Sec. 7-66. Release, Indemnification and Entitlement.**

- I. *Release.* By accepting a license issued pursuant to this article, the licensee releases the County, its elected officials, employees, officers, attorneys, and agents from any and all liability for any and all known, unknown or unforeseen damages, injuries, losses and

liabilities directly or indirectly related to the licensee's retail marijuana operations, including but not limited to any claim that results from any arrest or prosecution of the licensee, its employees, clients or customers, for a violation of state or federal law, rules, or regulations.

- II. *Indemnification.* By accepting a license issued pursuant to this article, the licensee, jointly and severally, if more than one (1), indemnifies and holds harmless the County, its employees, officers, elected officials, insurers, attorneys and agents from any and all suits, actions, claims, judgments, obligations or liabilities of every nature and description which arise out of or in any manner are connected with the operation of a retail marijuana establishment that is applying for a license or licensed by the County. Furthermore, the licensee agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees; however, such agreement does not make the licensee an agent or employee of the County.
- III. *Entitlement.* No person shall have any entitlement or vested right to licensing under this article. Licenses issued pursuant to this article are a revocable privilege subject to the will, oversight and scrutiny of local and state authorities. This article, the Retail Marijuana Code, and the Retail Marijuana Rules may be changed or amended from time to time. Such changes may preclude the continuance, renewal or further issuance of a local retail marijuana license at any given location. As of the date this article was enacted, the cultivation, use, possession, distribution and sale of marijuana is illegal under federal law, and any person who engages in such activities does so at their own risk. Any license issued pursuant to this article does not provide any exception, defense or immunity to any person in regard to any potential criminal liability a person may have for the cultivation, use, possession, distribution and sale of marijuana.
- IV. *Further Affirmation.* The County may require an applicant, as part of the application and review process, to affirm in writing the requirements of this section or any other part of this chapter.

#### **Sec. 7-67. License Surrender.**

Any licensee may surrender its retail marijuana license by delivering the same to licensing staff, but such surrender shall not affect the civil or criminal liability for acts committed prior thereto, nor entitle the licensee to a refund of any fees fee for any remaining portion of the licensing year.

**[Sec. 7-68 – Sec. 7-79 are reserved.]**