

Grand County Marijuana Licensing Regulation and Ordinance

Sec. 1. Purpose and legislative intent.

The purpose of this regulation and ordinance is to exercise the authority of the County of Grand to allow state licensed marijuana establishments to exist in unincorporated Grand County in accordance with applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth herein. This regulation and ordinance is adopted pursuant to constitutional and statutory authority, as well as the county's authority under its police power in order to preserve the public health, safety, and general welfare.

Sec. 2. Defined terms.

The definitions set forth in subsection 16 (2) of article XVIII of the Colorado Constitution as well as the Colorado Retail Marijuana Code, § 12-43.4-103, C.R.S., as amended, and the Colorado Medical Marijuana Code shall apply equally to this regulation and ordinance. In addition, the following terms shall have the meanings respectively assigned to them:

- (1) *“Alcohol or drug treatment facility”* means any facility located within a medical office or hospital with the primary purpose of counseling or providing medical services to patients who suffer from addictions to alcohol or drugs.
- (2) *“Child care establishment”* means a facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give twenty-four-hour care for children and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school, family child care home as provided in C.R.S. 26-6-102(4), or a specialized group facility that is licensed to provide care for three or more children pursuant to C.R.S. 26-6-102(10).
- (3) *“Church”* means a building or structure which has received a religious property tax exemption from the Colorado Property Tax Administrator (which, if challenged, has been upheld).
- (4) *“Colorado Retail Marijuana Code”* means article 43.4 of Title 12 of the Colorado Revised Statutes, as amended.

- (5) "Colorado Medical Marijuana Code" means article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.
- (6) "Local Licensing Authority" means the Grand County Board of County Commissioners.
- (7) "Marijuana Establishment" means any one of the classes of licenses issued under this regulation and ordinance.
- (8) "Medical marijuana center" means a person licensed pursuant to article 43.3, title 12, C.R.S. to operate a business as described in section [12-43.3-402](#) that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of article XVIII of the state constitution, but is not a primary caregiver.
- (9) "Medical marijuana-infused product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed medical marijuana center or a medical marijuana-infused product manufacturer, shall not be considered a food or drug for the purposes of the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S.
- (10) "Medical marijuana-infused products manufacturer" means a person licensed pursuant to article 43.3, title 12, C.R.S. to operate a business as described in section [12-43.3-404](#).
- (11) "Optional premises" means the premises specified in an application for a medical marijuana center license with related growing facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by section 14 of article XVIII of the state constitution.
- (12) "Optional premises cultivation operation" means a person licensed pursuant to article 43.3 title 12, C.R.S., to operate a business as described in section [12-43.3-403](#).
- (13) "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or manage.
- (14) "Retail marijuana" means marijuana as defined in section 16(2)(f) of article XVIII of the state constitution, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.
- (15) "Retail marijuana cultivation facility" has the same meaning as "marijuana cultivation facility" as defined in section 16 (2) (h) of article XVIII of the state constitution.
- (16) "Retail marijuana establishment" means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail marijuana testing facility.
- (17) "Retail marijuana products" means "marijuana products" as defined in section 16 (2) (k) of article XVIII of the state constitution that are produced at a retail marijuana products

manufacturer.

- (18) "Retail marijuana products manufacturer" has the same meaning as "marijuana product manufacturing facility" as defined in section 16 (2) (j) of article XVIII of the state constitution.
- (19) "Retail marijuana store" has the same meaning as defined in section 16 (2) (n) of article XVIII of the state constitution.
- (20) "Retail marijuana testing facility" means "marijuana testing facility" as defined in section 16 (2) (l) of article XVIII of the state constitution that is licensed pursuant to article 43.4, title 12, C.R.S.
- (21) "Sale" or "sell" includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under article 43.4, title 12, C.R.S., to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration promised or obtained directly or indirectly.
- (22) "School" means a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education.
- (23) "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of retail marijuana in this state pursuant to section [12-43.4-201](#) .

Sec. 3. Effective date; applicability.

This regulation and ordinance shall be effective January 1, 2014, and shall govern all applications submitted to the state licensing authority and the Clerk and Recorder for licensing of any marijuana establishment in the unincorporated Grand County under the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code on and after that date.

Sec. 4. Local licensing authority.

(a) The Clerk and Recorder is hereby designated as the entity within Grand County that is responsible for processing applications submitted for a license to operate a marijuana establishment within Grand County. Under any and all circumstances in which state law requires communication between the county and state licensing authority or any other state agency in regard to the licensing of marijuana establishments by the state, the exclusive authority for receiving and sending such communications shall be exercised by the Clerk and Recorder.

(b) The Board of County Commissioners shall conduct all hearings as may be required by this regulation and ordinance. Any person shall have an opportunity to file with the Clerk and Recorder written objections/support or appear in person at such hearings to submit such objection/support.

(c) Under no circumstances shall the Clerk and Recorder receive or act upon any application for local licensing of a marijuana establishment in circumstances where the state has failed to act in accordance with section 16 of article XVIII of the Colorado Constitution or section 14 of article XVIII of the Colorado Constitution, it being the intent of this regulation and ordinance that no marijuana establishment may lawfully exist in Grand County absent the issuance of a state license and full regulatory oversight of the marijuana establishment by the state as well as the county. Accordingly, the Clerk and Recorder shall not receive or act upon any application for licensing submitted independently and in lieu of state licensing.

Sec. 5. Application.

(a) All applications for local licensing shall be made upon forms provided by the Clerk and Recorder and shall include such supplemental materials as required by the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code, and statutes and rules adopted pursuant thereto, including by way of example: proof of possession of the licensed premises, proof of adequate water necessary to operate the facility, disclosures related to ownership of the proposed business, fingerprints of the applicants, building plans, and security plans. To the extent any of the foregoing supplemental materials have been included with the applicant's state license application and forwarded to the county by the state licensing authority, the Clerk and recorder may rely upon the information forwarded from the state without requiring re-submittal of the same materials in conjunction with the local license application. The Clerk and Recorder may, at the Clerk's discretion, require additional documentation associated with the application as may be necessary to enforce the requirements of the Colorado Retail Marijuana Code, Colorado Medical Marijuana Code and this regulation and ordinance.

(b) Application and license fees for retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers, retail marijuana testing facilities, warehouse permit, medical marijuana center, optional premises cultivation license and medical marijuana-infused products manufacturing license, plus the cost of a background check, are as follows:

- (1) retail marijuana stores: \$500.00;
- (2) retail marijuana cultivation facilities: \$500.00;
- (3) retail marijuana products manufacturers: \$500.00;
- (4) retail marijuana testing facilities: No Charge;
- (5) warehouse permit: \$500.00;
- (6) medical marijuana center: \$500.00;
- (7) optional premises cultivation license: \$500.00;
- (8) medical marijuana-infused products manufacturing license: \$500.00;

(9) Transfer of ownership: \$500.00;

(10) Transfer of location: \$500.00;

(11) Modification of premises: \$500.00;

(12) Criminal background check fee, per person: Actual costs per person. Applicants will be responsible for the cost of any and all background checks incurred for processing the above licenses, transfers and/or modifications.

(c) Not less than five days prior to the date of hearing, the Clerk and Recorder shall make known the Clerk's recommendation based on the clerk's investigation in writing to the applicant and other interested parties.

Sec. 6. Classes of licensing authorized.

For the purpose of regulating the cultivation, manufacture, testing, distribution, offering for sale, and sale of retail and/or medical marijuana, the Board of County Commissioners in the board's discretion, upon application in the prescribed form made to the Clerk and Recorder, may issue and grant to the applicant a local license from any of the following classes, and Grand County hereby authorizes issuance of the licenses of the following classes by the state licensing authority to applicants and locations in the county, subject to the provisions and restrictions set forth in this regulation ordinance:

1. Retail marijuana store. Retail marijuana stores may operate only in the Business or Tourist zones within unincorporated Grand County.
2. Retail marijuana cultivation facility. Retail marijuana cultivation facilities may operate only in the Business zone or Forestry and Open zone within unincorporated Grand County after issuance of a special use permit as provided for in the Grand County Zoning Regulations.
3. Retail marijuana products manufacturer. Retail marijuana products manufacturers may operate only in the Business zone within unincorporated Grand County.
4. Retail marijuana testing facility. Retail marijuana testing facility may operate only in the Business or Tourist zones within unincorporated Grand County.
5. Warehouse facility permit. Warehouse facilities may operate only in those zones allowing warehouses under the Grand County Zoning Regulations as now enacted or hereinafter amended.
6. Medical marijuana center. Medical marijuana centers may operate only in the Business or Tourist zones within unincorporated Grand County.

7. Optional premises cultivation license. Optional premises cultivation licenses may operate only in the Business zone or Forestry and Open zone within unincorporated Grand County after issuance of a special use permit as provided for by the Grand County Zoning Regulations.
8. Medical marijuana-infused products manufacturing license. Medical marijuana-infused products manufacturing licenses may operate only in the Business zone within unincorporated Grand County.

Sec. 7. Schedule Hearing and Notice.

(a) Upon receipt of a complete application for a marijuana establishment, the Clerk and Recorder shall schedule a public hearing before the Board of County Commissioners not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation.

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

(c) Notice given by publication shall contain the same information as that required for signs.

(d) If the building in which retail or medical marijuana is to be sold is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Sec. 8. Public Hearing.

(a) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses. As used in this section, "party in interest" means any of the following:

- a. The applicant;
- b. An adult resident of the neighborhood under consideration;

- c. The owner or manager of a business located in the neighborhood under consideration;
- d. An authorized representative of a registered neighborhood organization that encompasses all or part of the neighborhood under consideration; or
- e. the Board of County Commissioners.

(b) As used in this section, the term “neighborhood” shall have the same meaning as the Board of County Commissioners utilizes for purposes of issuance of liquor licenses.

(c) The Board of County Commissioners has authority to refuse to issue any marijuana establishment license for good cause, subject to judicial review pursuant to C.R.C.P. 106. For purposes of this subsection (c), the term “good cause” means:

1. The applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Retail and/or Medical Marijuana Code or any rule or regulation promulgated pursuant thereto, or this regulation and ordinance or any rule or regulation promulgated pursuant to this regulation and ordinance;

2. With respect to a second or additional retail or medical marijuana establishment license applied for by the same applicant, the Board of County Commissioners shall consider the effect on competition of the granting or disapproving of additional licenses to such licensee, and no application for a second or additional license that would have the effect of restraining competition shall be approved.

3. Evidence that the issuance of the license will adversely impact the health, welfare or public safety of the neighborhood in which the marijuana establishment is proposed to be located.

(d) Before entering any decision approving or denying the application, the Board of County Commissioners shall consider, except where this regulation and ordinance specifically provides otherwise, the facts and evidence adduced as a result of public hearing required by this section, and any other pertinent matters affecting the qualifications of the applicant for the conduct of business as a marijuana establishment.

(e) The Board of County Commissioners shall also consider:

1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, remonstrance, or otherwise; and

2. The number and availability of other marijuana establishments in or near the neighborhood under consideration; and

3. Whether the issuance of such license would result in or add to an undue concentration of marijuana establishment and, as a result, require the use of additional law enforcement resources.

(f) Any decision of the Board of County Commissioners approving or denying an application shall be in writing stating the reasons therefor, within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application and to the state licensing authority.

Sec. 9. Licensing requirements—Provisions applicable to all licenses.

In addition to those requirements of the Colorado Medical and/or Retail Marijuana Codes the following shall be required of all licenses:

(a) *Notice of applications to departments and agencies.* Upon receipt of an application for any class of local license, the Clerk and Recorder shall give notice of the application to the Department of Planning and Zoning and the Grand County Sheriff's Department, and the Local Fire District. Any applicant for a license under this regulation and ordinance shall obtain any and all necessary permits, licenses and other regulatory approvals from the other affected county departments and agencies prior to the issuance of a license under this regulation and ordinance.

(b) *Background checks and determination of good character and state residency.* Prior to the issuance of any local license, the Board of County Commissioners shall make a finding and determination as to the good moral character of the applicant and compliance with state residency requirements in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code. In so doing, the Board may incorporate any findings as to good character and residency previously made by the state licensing authority, and shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check on the applicant.

(c) *Area maps.* All applications for marijuana establishment submitted pursuant to this regulation and ordinance shall include an area map drawn to scale indicating land uses of other properties within a 1,000-foot radius of the property upon which the applicant is seeking a license. The map shall depict the proximity to the property to any school, church or child care establishment, to any other marijuana establishment, or to any alcohol or drug treatment facility.

(d) *Additional Prohibited locations.* No retail or medical marijuana license shall be issued for the following locations:

- (1) Within one thousand (1,000) feet of any school, child care establishment, alcohol or drug treatment facility or church, with the distance computed by direct measurement **in a straight line** from the nearest property line of the land used for the school, child care facility, alcohol or drug treatment facility, or church to the nearest portion of the building in which the marijuana establishment is located.

(e) *Off-site delivery of product by licensee prohibited.* All sales and distribution of retail or medical marijuana by a licensed marijuana establishment shall occur only upon the licensed premises, and the licensee shall be strictly prohibited from delivering retail or medical marijuana to any person at any other location.

(f) *Signs and advertising.*

(1) Any person or premises licensed as a marijuana establishment shall comply with all county ordinances and regulations regulating signs and advertising. In addition, no licensed marijuana establishment shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this regulation and ordinance or any other person to advertise any marijuana product anywhere in the county where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the Grand County Zoning Regulations; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph (2) shall not apply to:

(a) Any sign located on the same zoned lot as a marijuana establishment which exists solely for the purpose of identifying the location of the marijuana establishment and which otherwise complies with the Grand County Zoning Regulations and any other applicable county laws and regulations; or

(b) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the county; or

(c) Advertising which is purely incidental to sponsorship of a charitable event by a marijuana establishment.

Sec. 10. Unlawful Acts.

In addition to those unlawful acts set forth within the Colorado Retail and/or Medical Marijuana Codes, it shall be unlawful to:

(a) operate any marijuana establishment in the county without a license duly issued therefor by the state licensing authority under the Colorado Retail Marijuana Code or the Colorado Medical Marijuana Code and compliance with any and all applicable state laws.

(b) operate any marijuana establishment in the county without a license duly issued therefor by the Board of County Commissioners under this regulation and ordinance and compliance with any and all applicable county laws, rules and regulations.

(c) engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of article XVIII of the

Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.

(d) It shall be unlawful for any person to sell marijuana or marijuana products at a licensed retail or medical marijuana establishment at any time other than between the hours of 8:00 a.m. and 12:00 a.m. daily.

(e) Any person who commits acts which are unlawful pursuant to this regulation and ordinance hereby commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-105, C.R.S., except for violations that would constitute a violation of Title 18, C.R.S., which violation shall be charged and prosecuted pursuant to Title 18, C.R.S.

Sec. 11. Transfer of ownership.

In general. Transfer of ownership of any local license issued pursuant to this regulation and ordinance shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code and any rule or regulation adopted pursuant thereto, and the Clerk and Recorder shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses.

Sec. 12. Change of location; modification of premises.

Change of location of any license or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code and any rule or regulation adopted pursuant thereto, and the Clerk and Recorder shall administer applications to change location or modify premises in the same manner as the state licensing authority administers changes of location and modification of premises for state licenses. Any proposed modification and any new location to which an existing licensed business is transferred shall fully comply with the spacing requirements and the requirements for conformance with current zoning as set forth in this regulation and ordinance.

Sec. 13. Term of licenses; renewals.

Any local license issued pursuant to this regulation and ordinance shall be valid for a period of one year from the date of issuance. Any renewal of the license shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code and any rule or regulation adopted pursuant thereto, and the Clerk and Recorder shall administer license renewals in the same manner as the state licensing authority administers renewals of state licenses.

Sec. 14. Disciplinary Action, Suspension, Revocation, Fines.

(a) In addition to any other sanctions prescribed by this regulation and ordinance or the Colorado Retail and/or Medical Marijuana Codes or any rule or regulation promulgated pursuant to thereto, the Board of County Commissioners shall have the power, on its own

motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this regulation and ordinance or the Colorado Retail and/or Medical Marijuana Codes or any of the rules or regulations promulgated pursuant thereto, or of any of the terms, conditions, or provisions of the license issued by the state licensing authority. The Board of County Commissioners shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to conduct the hearing that the Board of County Commissioners is authorized to conduct.

- (b) The Board of County Commissioners shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing pursuant to subsection (a) of this section, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished by the licensee. Except in the case of a summary suspension, a suspension shall not be for a period longer than six months. If a license is suspended or revoked, a part of the fees paid therefor shall not be returned to the licensee. Any license may be summarily suspended by the Board of County Commissioners without notice pending any prosecution, investigation, or public hearing pursuant to the terms of section 24-4-104 (4), C.R.S. Nothing in this section shall prevent the summary suspension of a license pursuant to section 24-4-104 (4), C.R.S.
- (c)
 - (1) Whenever a decision of the Board of County Commissioners suspending a license for fourteen days or less becomes final, the licensee may, before the operative 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. Upon the receipt of the petition, the Board of County Commissioners may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the Board of County Commissioners is satisfied that:
 - (I) The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and
 - (II) The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.
 - (2) The fine accepted shall be not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00).
 - (3) Payment of a fine pursuant to the provisions of this subsection (c) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the Board of County Commissioners, whichever is appropriate, and delivered to the Clerk and Recorder.

- (d) Upon payment of the fine pursuant to subsection (c) of this section, the Board of County Commissioners shall enter its further order permanently staying the imposition of the suspension.
- (e) In connection with a petition pursuant to subsection (c) of this section, the authority of the Board of County Commissioners is limited to the granting of such stays as are necessary for the Board to complete its investigation and make its findings and, if the Board makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.
- (f) If the Board of County Commissioners does not make the findings required in paragraph (1) of subsection (c) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Board of County Commissioners.

Sec. 15. Judicial Review.

Decisions by the Board of County Commissioners are subject to judicial review pursuant to C.R.C.P. 106.

Sec. 16. Severability.

If any section, subsection, sentence, clause or phrase of the Grand County Marijuana Licensing Regulation and Ordinance should be found invalid, the invalidity of such section, subsection, sentence, clause or phrase shall not affect any other section, subsection, sentence, clause or phrase of the remainder of the Grand County Marijuana Licensing Regulation and Ordinance.