

MEETING MINUTES
GRAND COUNTY BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY DEPARTMENT OF SOCIAL SERVICES
GRAND COUNTY BOARD OF HEALTH
GRAND COUNTY HOUSING AUTHORITY

January 4, 2022

Present: Commissioner Richard D. Cimino, Commissioner District 1
Commissioner Merrit S. Linke, Commissioner District 2
Commissioner Kristen Manguso, Commissioner District 3

Also Present: County Clerk and Recorder Sara L. Rosene
County Manager Ed Moyer
Assistant County Manager Micah Benson
County Attorney Chris Leahy
Assistant County Attorney Maxine LaBarre-Krostue

Those present recited the Pledge of Allegiance.

Commissioner Linke will be joining the meeting remotely.

Commissioner Cimino moved to approve Resolution No. 2022-1-1, "ACTIONS NECESSARY TO BEGIN THE WORK FOR GRAND COUNTY FOR THE YEAR 2022"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-2, "APPOINTING THE COUNTY MANAGER TO SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-3, "SETTING FORTH CERTAIN STATUTORY REQUIREMENTS BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO, TO-WIT, ACTIONS CONCERNING MEETING DATES; BUILDING CLOSURE, AND MEETING SCHEDULES FOR THE YEAR OF 2022; LEGAL NEWSPAPER AND PLACE OF POSTING MEETING NOTICES"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-4, "AUTHORIZING THE COUNTY ASSESSOR TO REVIEW FOR ABATEMENT OR REFUND AND TO SETTLE BY WRITTEN MUTUAL AGREEMENT ANY SUCH PETITION FOR ABATEMENT OR REFUND IN AN AMOUNT OF FIVE THOUSAND DOLLARS OR LESS PER TRACT, PARCEL OR LOT OF LAND OR PER SCHEDULE OR PERSONAL PROPERTY"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-5, "APPROVING THE STANDARD MILEAGE RATE OF REIMBURSEMENT FOR 2022, SETTING THE MAXIMUM EMPLOYEE DAILY ALLOWANCE FOR MEALS AND INCIDENTAL EXPENSES FOR 2022, AND SETTING THE MONTHLY REIMBURSEMENT AMOUNT FOR USE OF PERSONAL CELL PHONES FOR 2022"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-6, "CONTINUING THE POSITION OF COUNTY ATTORNEY TO SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO"

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2022-1-7, "APPOINTING THE VETERANS SERVICE OFFICER"

The motion passed unanimously.

Commissioner Cimino moved to approve the Minutes of the Regular Board of Commissioners meeting of November 16, 2021, as presented.

The motion passed unanimously.

Commissioner Cimino moved to approve the Minutes of the Regular Board of Commissioners meeting of November 23, 2021, as presented.

The motion passed unanimously.

General Public Comments

Based on a question from Mariette McGrath, the Board confirmed that the County has no mandates.

Finance

Commissioner Linke moved to authorize the Chair to sign a W-9 and State Sales Tax Exemption Form for Grand County as presented.

The motion passed unanimously.

Finance Director Curtis Lange presented the Warrant Register and Expenditure List to be paid on January 5, 2022, for vendor payments. The list for this period was verified for the Board’s approval.

Commissioner Cimino moved to approve the checks presented on January 4, 2022, for payment on January 5, 2022, for the Grand County Housing Authority.

The motion passed unanimously.

Commissioner Cimino moved to approve the vouchers presented on January 4, 2022, for payment on January 5, 2022, for the Grand County Department of Human Services.

The motion passed unanimously.

Commissioner Cimino moved to approve wire payment, vouchers, and interfund transfers presented on January 4, 2022, for payment on January 5, 2022, for Grand County.

The motion passed unanimously.

Fire and pandemic

	COVID-19	East Troublesome Fire	
		Paid	Total Fire
2020 Cares Act/ETFire Reimbursement Allocation	\$701,883	\$20,388	\$20,388
Less:			
2020 Personnel costs	\$381,135	\$137,487	\$137,487
2020 Grand Foundation programs funded	\$230,000		
2020 Rural Health grant	\$10,000		
2020 Other operating costs	\$115,852	\$205,974	\$205,974
Total 2020 costs	\$736,987	\$343,461	\$343,461
Net 2020 (costs) after reimbursements	\$(35,104)	\$(323,073)	\$(323,073)
2021 Reimbursements Requested	\$50,540	\$1,392,049	\$1,392,049
Less:			
2021 Personnel costs	\$329,443	\$118,563	\$118,563
2021 Grand Foundation programs funded			
2021 Rural Health grant			
2021 Other operating costs	\$17,231	\$1,763,253	\$1,763,253
Total 2021 costs	\$346,674	\$1,881,816	\$1,881,816
Net 2021 (costs) after reimbursements	\$(296,134)	\$(489,767)	\$(489,767)
Total costs after reimbursements	\$(331,238)	\$(812,840)	\$(812,840)

Unrestricted Fund Balance calculation	
2020 Operating Revenues	\$29,195,000
2020 Operating Expenditures	\$21,672,000
2020 Unrestricted Fund Balance	\$14,600,000
% of operating revenues	50%
% of operating expenses	67.4%

Departmental

Commissioner Cimino moved to approve the Services Contract between Grand County and Miller Engineers, Inc. d/b/a Souder Miller & Associates in an amount not to exceed \$106,859 and authorize the Chair to sign.

The motion passed unanimously.

Commissioner Cimino moved to approve the Highway Users Tax Fund report with the following miles:

- 156.210 miles of arterial streets
- 612.839 miles of local streets
- 769.049 total miles of H.U.T. eligible streets
- 59.619 miles of non H.U.T. eligible streets – Maintained by others
- 36.840 miles of non H.U.T eligible streets – not maintained

The motion passed unanimously.

Commissioner Cimino moved to approve the Jail Service Agreement Amendment between Grand County and T.W. Vending Inc., d/b/a TurnKey Corrections as presented.

The motion passed unanimously.

Commissioner Cimino moved to approve the Contract between Grand County and Axon Enterprise, Inc and have the Contract stamped with Board signatures once the Contract comes back signed by the vendor.

The motion passed unanimously.

Commissioner Cimino moved to approve the First Amendment to the Memorandum of Understanding for Housing Collaboration between the Towns of Winter Park, Fraser, and Granby and Grand County.

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2021-12-26, "A RESOLUTION APPROVING AMENDMENTS TO, AND RENEWAL OF, THE GRAND COUNTY BENSON GRAVEL PIT, LOCATED IN PORTIONS OF THE WEST ½, NORTHWEST ¼ OF SECTION 13 AND THE NORTHEAST ¼ NORTHEAST ¼ OF SECTION 14, TOWNSHIP 1 SOUTH, RANGE 76 WEST OF THE 6TH P.M., GRAND COUNTY COLORADO" and authorize the Chair to sign the permit.

The motion passed unanimously.

Commissioner Cimino moved to approve Resolution No. 2021-11-22, "A RESOLUTION GRANTING APPROVAL OF THE SPECIAL USE PERMIT AMENDMENT FOR UNION CELLULAR – SAN TOY SITE, LOCATED IN THE SOUTHEAST ¼ SOUTHWEST ¼ OF SECTION 35 TOWNSHIP 1 NORTH RANGE 81 WEST OF THE 6TH P.M., COUNTY OF GRAND, STATE OF COLORADO, ALSO KNOWN AS THE SAN TOY MOUNTAIN SITE"

The motion passed unanimously.

Commissioner Cimino moved to reappoint Sheena Darland to the Middle Park Fair Board with a term to end December 31, 2024.

The motion passed unanimously.

Grand County Board of Health

Commissioner Manguso announced the Board is sitting as the Grand County Board of Health.

Grand County is at 208 cases in the last seven days. There have been 245 cases in the last 14 days. The one week case rate is at 1,145.8 per 100,000 people

CDPHE is reporting that 90 percent of all cases are Omicron.

Grand County is experiencing 30 cases per day.

The total documented cases in Grand County is 2645 which is about 16.7 percent of the total population.

Grand County has 14 deaths due to COVID and four with COVID.

There is currently one active outbreak.

Across the state, 78 percent hospitalized individuals are unvaccinated.

For the Foothills RETAC region, the ICU bed capacity is now at nine percent so that is 17 beds. The level of acute care beds is 42 bed available.

Of Grand County eligible residents 62 percent are fully vaccinated. Approximately 72.1 percent of eligible Grand County residents have received at least one dose. The natural immunity through illness is 4.2 percent. The total estimated community immunity is 66.2 to 76.3 percent.

There is some influenza A in Grand County. Statewide there have been 133 hospitalizations since the beginning of October due to influenza A.

The hospitalization rate for influenza is .46 per 100,000 and 97 per 100,000 for COVID.

Dr. Stuermann stated that doctors are having trouble transferring patients due to the number of COVID cases in Colorado.

Commissioner Manguso announced the Board is sitting as the Grand County Board of Commissioners.

Manager and Attorney Items

Mr. Moyer is working with the Corps of Engineers with regard to County Road 522.

Commissioner Cimino moved to enter into an Intergovernmental Agreement between Grand County and the Town of Hot Sulphur springs regarding a tract of real property located near the Town of Hot Sulphur Springs for a non-exclusive right to allow the public recreation use of the property as presented.
The motion passed unanimously.

Consent Agenda

Resolution No. 2021-12-22, "APPROVING THE APPOINTMENT OF SETH STERN AS A REPRESENTATIVE TO THE MIDDLE PARK FAIR AND RODEO BOARD"

Resolution No. 2021-12-23, "APPROVING THE APPOINTMENT OF TODD OSBORNE AS A REPRESENTATIVE TO THE MIDDLE PARK FAIR AND RODEO BOARD"

Resolution No. 2021HA-12-24, "APPROVING AN APPLICATION FOR EXEMPTION FROM THE AFFORDABLE HOUSING TRANSFER FEE IMPOSED BY THE RESTRICTIVE COVENANTS OF THE RANCHES AT DEVIL'S THUMB, RELATED TO REAL PROPERTY LOCATED AT LOT 7, THE RANCHES AT DEVIL'S THUMB, GRAND COUNTY, COLORADO"

Resolution No. 2021HA-12-25, "APPROVING AN APPLICATION FOR EXEMPTION FROM THE AFFORDABLE HOUSING TRANSFER FEE IMPOSED BY THE RESTRICTIVE COVENANTS OF THE RANCHES AT DEVIL'S THUMB, RELATED TO REAL PROPERTY LOCATED AT LOT 11, THE RANCHES AT DEVIL'S THUMB, GRAND COUNTY, COLORADO"

Commissioner Cimino moved to approve the Consent Agenda.
The motion passed unanimously.

Board Business / Correspondence / Calendar

Commissioner Linke moved to reappoint Michael Ritschard to the Colorado River Water Conservation District as Grand County's representative.
The motion passed unanimously.

Mr. Ritschard stated that he attended the water conference. There is a 90 percent snow pack for the Colorado Basin and only 30 percent will be going to Powell.

The Board noted receipt of the VSO Report.

Calendar

Jan 5	CCAT Meeting with Dylan Roberts on additional affordable housing programs via Zoom from 1 pm to 2 pm
Jan 6	Colorado Counties, Inc. (CCI) Short-Term Rental Tax Policy Stakeholder Hybrid Discussion, 1 to 2:30 pm
Jan 6	CCAT Policy Committee meeting from 3:30 pm to 5 pm
Jan 7	Club 20 meeting via Zoom at 10:00 am
Jan 10	Livestock Subcommittee meeting of the Wolf Committee via zoom at 11:00 am
Jan 13	Utility Coordinating Committee (UCC) at Java Lava Café in Granby from 7:30 am to 9 am
Jan 14	CCI HB21-1110 Compliance Webinar via Zoom starting at noon

Consulting Services Update, Waller Consulting, LLC

Mark Waller and Joe Miklosi presented.

Mr. Miklosi stated that election year sessions of the legislature are generally more political.

Commissioner Linke moved to approve the Waller Consulting, LLC Contract as presented.
The motion passed unanimously.

Public Hearing – Flintstone Gravel & Trucking Inc., Special Use Permit Amendment

Commissioner Cimino moved to continue the public hearing for Flintstone Gravel & Trucking, Inc. Special Use Permit Amendment to February 1, 2022 at 11:15 a.m.
The motion passed unanimously.

First Reading of Proposed Amended Marijuana Licensing Ordinance

Following is the first reading of the Proposed Amended Marijuana License Ordinance.

ORDINANCE NO. 22
Grand County Marijuana Licensing Regulation and Ordinance

Be it ordained by the Board of County Commissioners of the County of Grand, State of Colorado:

Sec. 1. Purpose, Legislative Intent, and Authority.

The purpose of this regulation and ordinance is to exercise the authority of the County of Grand, Colorado 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.

As of 2022, the authority for this Grand County Licensing Regulation and Ordinance (“Marijuana Ordinance” or “Ordinance”) is found in Sections 14 and 16 of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code and Section 25-1.5-106.5, C.R.S., as well as any state implementing regulations.

Sec. 2. Defined Terms.

- (1) The definitions of terms in Sections 14 and 16 of Article XVIII of the Colorado Constitution, as well as the Colorado Marijuana Code and state implementing rules, are incorporated by reference for use in this regulation and ordinance unless specifically defined below, in which case the definition below shall apply.
- (2) The following terms shall be used with the definitions set forth below:
 - (a) “Alcohol or drug treatment facility” means any facility located within a medical office or hospital, as these terms are defined by the zoning regulations, with the primary purpose of counseling or providing medical services to patients who suffer from addictions to alcohol or drugs.
 - (b) “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; a child care center under C.R.S. § 26-6-102(5), a family child care home under C.R.S. § 26-6-102(13), or a specialized group facility that is licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(36), as those statutes may from time to time be amended.
 - (c) “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).
 - (d) “Clerk and Recorder” and “Clerk” mean the Grand County Clerk and Recorder.
 - (e) “Colorado Marijuana Code” means Article 10 of Title 44 of the Colorado Revised Statutes, as may from time to time be amended.
 - (f) “Inhabitant” means a person who resides or owns property within the “Neighborhood” under consideration.
 - (g) “Local Licensing Authority” means the Board of County Commissioners of Grand County.
 - (h) “Marijuana Establishment” means a facility issued any one of the classes of licenses available under this Ordinance.

- (i) “Neighborhood” is the area within a two mile radius of the main entrance of the proposed licensed premises unless, after applying the factors set forth in Section 7(1) of this regulation and ordinance, the Clerk and Recorder determines a different area should be designated the Neighborhood.
- (j) “Person” means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer or employee thereof authorized to act on behalf of the entity or organization. For the purpose of participating in licensing proceedings, “person” includes a public entity with jurisdiction over, or which directly provides services within, any part of the Neighborhood.
- (k) “School” means a public or private preschool, or a public or private elementary, middle, junior high, or high school, or institute of higher education.

Sec. 3. Effective Date; Applicability.

This Ordinance shall be effective February 1, 2022, and shall govern all applications submitted to the state licensing authority and the Clerk and Recorder for licensing of any marijuana establishment in unincorporated Grand County under the Colorado Marijuana Code on and after that date.

Sec. 4. Local Licensing Authority.

- (1) 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 unincorporated Grand County, and is authorized to establish the Neighborhood for any particular application. 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.
- (2) The Board of County Commissioners shall conduct all hearings as may be required or permitted by this Ordinance. Any person shall have an opportunity to file with the Clerk and Recorder written objections and/or support, or appear in person at such hearings to submit such objection and/or support.
- (3) 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 Sections 14 or 16 of Article XVIII of the Colorado Constitution, it being the intent of this 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.

Sec. 5. Application.

- (1) 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 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 Marijuana Code, this Ordinance, or any rule or regulation promulgated pursuant thereto.
- (2) Not less than five days prior to the date of any public hearing, the Clerk and Recorder shall make known in writing to the applicant and other interested parties the Clerk’s recommendation(s) based on the Clerk’s investigation.

- (3) Each application shall be accompanied by the appropriate fee for the license or activity requested in the application, plus the cost of background checks. Fees shall be established by resolution of the Board of County Commissioners. Passage of such resolution shall be preceded by a notice of the proposed fee(s) and the date and time the resolution will be considered, published one time in a legal newspaper at least ten days, and not more than forty days, prior to the meeting at which the resolution is considered.

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 sole 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 in locations in unincorporated Grand County, subject to the provisions and restrictions set forth in this regulation and ordinance:

- (1) Retail marijuana store. Retail marijuana stores may operate only in areas zoned as Business District or as Tourist District.
- (2) Retail marijuana cultivation facility. Retail marijuana cultivation facilities may operate only in areas zoned as Forestry and Open District after issuance of a special use permit as provided in the Grand County Zoning Regulations, or zoned as Business District.
- (3) Retail marijuana products manufacturer. Retail marijuana products manufacturers may operate only in areas zoned as Business District.
- (4) Retail marijuana testing facility. Retail marijuana testing facilities may operate only in areas zoned as Business District or as Tourist District.
- (5) Warehouse facility permit. Warehouse facilities may operate only in those areas in which the zoning allows warehouses.
- (6) Medical marijuana center. Medical marijuana centers may operate only in areas zoned as Business District or as Tourist District.
- (7) Optional premises cultivation license. Optional premises cultivation licenses may operate only in areas zoned as Forestry and Open District after issuance of a special use permit as provided by the Grand County Zoning Regulations, or zoned as Business District.
- (8) Medical marijuana-infused products manufacturing license. Medical marijuana-infused products manufacturing licenses may operate only in areas zoned as Business District.

Sec. 7. Set Neighborhood, Schedule Hearing and Notice.

- (1) Upon receipt of a complete application for a marijuana establishment and payment of fees and costs, the Clerk and Recorder shall designate the Neighborhood to be considered during any public hearing. The Neighborhood designated shall be either the presumptive Neighborhood consisting of the area within a two mile radius of the main entrance to the premises for which the application is made, or a different Neighborhood established by considering the geographical area around the premises subject of the application, the persons potentially to be served by the license, community of the area, where inhabitants obtain services and products, distances between municipalities and communities, and such other factors as the Clerk and Recorder may determine demonstrate a "Neighborhood." A Neighborhood may include areas within municipal boundaries without including the entire municipality. No designation of Neighborhood shall include the entire county or a majority of the land acreage of the County. Notice of the neighborhood designated shall be provided to the applicant and made public within five business days following receipt of a complete application.
- (2) Upon receipt of a complete application, the Clerk and Recorder shall schedule a public hearing upon the application before the Board of County Commissioners not less than thirty days from the date the application is complete. Public notice of the application and public hearing shall be given 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 legal

publication in a newspaper of general circulation in the area of the licensed premises. Published notice shall contain the same information as that required for posted notice.

- (3) Posted notice shall be by posting 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 public 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 posted notice shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the posted notice shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.
- (4) The applicant shall also cause publication of a display advertisement of not less than a one-quarter page of the newspaper containing the same information as that required for posted notice.
- (5) 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 (2) and (3) 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 on 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

- (1) The public hearing shall consider potential impacts of granting the license on the Neighborhood established pursuant to Section 7(1).
- (2) At any public hearing held pursuant to this regulation and ordinance, a “Party in Interest”, as defined below, shall be allowed to present evidence or testimony.
 - (a) The following shall have automatic “Party in Interest” status for all proceedings:
 - (I) The applicant; and
 - (II) A person residing, holding, or owning any property interest in the Neighborhood may file with the Clerk and Recorder written objections to, or support for, an application, and/or may appear in person at such public hearing to submit such objection or support.
 - (b) A person who is not an automatic Party in Interest under Section 8(2)(a) but who alleges they are affected or aggrieved by the action of the Board of County Commissioners may, at the sole discretion of the Board, be granted Party in Interest status, but only after the person files with the Board of County Commissioners a written request to be added as a Party in Interest. The request must set forth a brief and plain statement of the alleged facts and purported reasons the requestor should be granted Party in Interest status. Such written request shall be filed at least 5 days prior to the scheduled public hearing. The Board of County Commissioners shall determine requested Party in Interest status on the day of the public hearing. Nothing shall prevent the Board of County Commissioners from granting or denying any person or agency Party in Interest status at the public hearing. The Board of County Commissioners shall have the authority to decide Party in Interest status and may grant Party in Interest status to those not conforming to these requirements upon a showing of good cause or excusable neglect.
- (3) The Board of County Commissioners has the discretion to accept or reject comments, statements, and/or documents from any person, whether or not the person qualifies as a Party in Interest.
- (4) The Board of County Commissioners shall give all evidence the weight it deems appropriate.
- (5) The Board of County Commissioners has authority to refuse to issue any marijuana establishment license for good cause. For purposes of this subsection (5), “good cause” is established where the Board, in its discretion, finds:
 - (a) The applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Marijuana Code, this Ordinance, any other applicable regulations and/or ordinances, or any rule or regulation promulgated pursuant thereto, and/or;

- (b) With respect to a second or additional retail or medical marijuana establishment license applied for by the same applicant, after considering the potential effect on competition of the granting or disapproving of additional licenses to such licensee, that granting an additional license would have the effect of restraining competition, and/or;
- (c) Evidence that the issuance of the license and subsequent operation of the business will adversely impact the health, welfare or public safety of the Neighborhood in which the marijuana establishment is proposed to be located.
- (6) Before entering any decision approving or denying the application, the Board of County Commissioners shall consider, except where this Ordinance specifically provides otherwise, the facts and evidence adduced as a result of any 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.
- (7) The Board of County Commissioners shall also consider:
- (a) The reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, remonstrance, or otherwise, and;
- (b) The number and availability of other marijuana establishments in or near the Neighborhood under consideration.
- (8) The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and other applicable law.
- (9) Any decision of the Board of County Commissioners approving or denying an application shall be in writing, stating the reasons therefor, issued 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.
- (10) Any Party in Interest may seek judicial review of the Local Licensing Authority decision as provided in the State Administrative Procedure Act, Article 4 of Title 24, Colorado Revised Statutes, or any successor provision.

Sec. 9. Licensing Requirements, Conditions and Restrictions—Provisions Applicable to all Licenses.

In addition to the requirements of the Colorado Marijuana Code, the following shall be required of all licensees:

- (1) *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 Grand County Department of Community Development, the Grand County Sheriff's Office, and the local fire district. Any applicant for a license under this 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 Ordinance.
- (2) *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 Marijuana Code. In so doing, the Board of County Commissioners 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.
- (3) *Area maps.* All applications for marijuana establishments submitted pursuant to this Ordinance shall include an area map drawn to scale indicating land uses of other properties within a 1,000-foot radius of the property, measured as described in subsection (4)(b) below, for which the applicant is seeking a license. The map shall depict the proximity from the property to any school, church or child care establishment, any other marijuana establishment, and to any alcohol or drug treatment facility.

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

- (a) In any area zoned as Residential District, as defined by the Grand County Zoning Regulations.
- (b) Within one thousand (1,000) feet of a school, alcohol or drug treatment facility, the principal campus of a college, university, or seminary, a residential child care facility, a child care establishment, or church, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for such purpose to the nearest portion of the building in which the marijuana establishment is located.
- (c) However, the distance restriction shall not affect the renewal or reissuance of a license once granted, or apply to a license in effect and actively doing business before said establishment described in subsection (4)(b) above was constructed, and shall not apply to a licensed premises located or to be located on land owned by a municipality or by the state.

(5) *Off-site delivery of product by licensee prohibited.* Except for sale and delivery of marijuana and marijuana products by cultivation facilities, marijuana products manufacturers, and medically marijuana infused products manufacturers, 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.

(6) *Signs and advertising.*

(a) 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.

(b) Except as otherwise provided in this subsection (b), it shall be unlawful for any person licensed under this article 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 regulated by the Grand County Zoning Code; 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 subsection (b) shall not apply to:

(I) Any sign located on the same 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 Code and any other applicable county laws and regulations, or;

(II) Any advertisement, whether printed in a newspaper itself or by insert, handbill, leaflet or other flier, distributed with or contained within a newspaper, magazine, or other periodical of general circulation within the County, or;

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

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

(8) *Inactive Licenses:* The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive without good cause for at least one year.

(9) *Release of County:* By accepting a license issued pursuant to this regulation and ordinance, all licensees waive and release the County, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, losses, damages, or liabilities of any kind that result from any arrest or prosecution of retail or medical marijuana establishment owners, operators, employees, clients or customers for a violation of county, state or federal laws, rules or regulations.

(10) *Indemnification:* By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the County, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation, including cultivation and distribution of product, of the marijuana establishment that is the subject of the license.

Sec. 10. Unlawful Acts.

(1) Any violation of the Colorado Marijuana Code or of the rules and regulations promulgated thereunder, shall constitute a violation of this Ordinance.

(2) In addition to those unlawful acts set forth in the Colorado Marijuana Code, it shall be unlawful for any person to:

(a) operate any marijuana establishment in Grand County without a license duly issued therefor by the state licensing authority under the Colorado Marijuana Code, or in non-compliance with any and all applicable state laws, and;

(b) operate any marijuana establishment in Grand County without a license duly issued therefor by the Board of County Commissioners under this Ordinance, or in non-compliance with any and all applicable county laws, rules, regulations or ordinances, and;

(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 14 and Section 16 of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code, and are authorized by state and local licenses, and;

(d) sell or distribute 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.

Sec. 11. Transfer of Ownership.

Transfer of ownership of any local license issued pursuant to Ordinance shall be governed by the standards and procedures set forth in the Colorado Marijuana Code and any regulations adopted pursuant thereto. The Clerk and Recorder shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses; however, the final approval of a transfer of ownership shall be made by the Board of County Commissioners on the report and recommendation of the Clerk and Recorder. Either the Clerk and Recorder or the Board of County Commissioners may require a public hearing on the questions of the qualification and eligibility of the applicant transferee to hold a marijuana-related license. Any such public hearing shall be conducted pursuant to Section 8 of this Ordinance, following notice as required by Section 7.

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 Marijuana Code and any regulations adopted pursuant thereto. 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 Ordinance. The Clerk and Recorder shall administer applications to change location or modify premises in the same manner as the state licensing authority administers change of location and modification of premises for state licenses; however, the final approval of a change of location or a modification

of premises shall be made by the Board of County Commissioners on the report and recommendation of the Clerk and Recorder. Either the Clerk and Recorder or the Board of County Commissioners may require a public hearing on the questions of the qualification and eligibility of the applicant to change location or modify premises. Any such public hearing shall be conducted pursuant to Section 8, following notice as required by Section 7 of this Ordinance.

Sec. 13. Term of Licenses.

- (1) Any local license issued pursuant to this regulation and ordinance shall be valid for a period of one year from the date of issuance. The licensee shall submit a renewal application to the Clerk and Recorder at least 45 days prior to the expiration of the current license.
- (2) With respect to retail marijuana establishment licenses, a public hearing in compliance with these regulations shall be conducted by the Board of County Commissioners on the first renewal date of each license. Thereafter, if the licensee timely files a renewal application, the Clerk and Recorder may administratively approve the license for a period not to exceed one year from the date of renewal.
- (3) With respect to medical marijuana establishment licenses, if the licensee timely files a renewal application, the Clerk and Recorder may administratively approve the license for a period not to exceed one year from the date of renewal.
- (4) If there is a violation of this Ordinance or any other law, or good cause exists for nonrenewal, or a significant change in Colorado law, or the Board of County Commissioners, in its sole discretion, requests, the Clerk and Recorder shall schedule the renewal of any marijuana license for a public hearing before the Board of County Commissioners. All public hearings conducted pursuant to this section shall be conducted in accordance with and comply with Section 7 and Section 8 of this Ordinance.

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

- (1) During business hours, all licensed premises shall be subject to inspection, without notice and without a warrant, by persons from the offices of the Grand County Sheriff, Clerk and Recorder, Assessor, and/or Community Development Department, for the purpose of investigating and determining compliance with the provisions of the license for the premises or activity, with this Ordinance, as amended, and any other applicable state or local law or regulation. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any portion of the licensed premises consists of locked areas, such area shall be made available for inspection, without delay, upon request.

Any person, including persons authorized by this section to conduct investigations, may initiate a complaint to the Board of County Commissioners and/or may refer allegations of violations to any agency with civil or criminal jurisdiction over the matter referred. Any complaint to the Board of County Commissioners shall be a written complaint, signed and sworn to by the complainant, stating the name of the licensee complained against and the grounds for the requested action.

- (2) In addition to any other sanctions prescribed by this Ordinance, the Colorado Marijuana Code, or rules and regulations promulgated pursuant thereto, the Board of County Commissioners has the power, on its own motion or on written, sworn complaint, to impose civil disciplinary sanctions, including suspension of license, revocation of license, and/or civil fines. Such civil disciplinary action may be imposed only after investigation and opportunity for a public hearing before the Board of County Commissioners at which the licensee must be afforded an opportunity to be heard. Civil disciplinary sanctions may be imposed for violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this Ordinance, the Colorado Marijuana Code, the rules promulgated pursuant thereto, as applicable to the specific license, or of any of the terms, conditions, or provisions of the license issued by the state licensing authority or the local licensing authority. The evidentiary standard for imposition of sanction shall be preponderance of the evidence, and the prosecution bears the burden of proof. The Board of County Commissioners may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a public hearing that the Board of County Commissioners is authorized to conduct.

- (3) Notwithstanding the foregoing provision for civil disciplinary sanctions, any license may be summarily suspended by the Board of County Commissioners upon probable cause and without notice pending any prosecution, investigation, or public hearing pursuant to the terms of section C.R.S. § 24-4-104 (4).

The Board of County Commissioners shall provide notice of any summary suspension and subsequent hearing thereon, and notice of any pre-sanction hearing on non-summary suspensions matters. The notice shall include notice of the summary suspension, or if not a summary suspension, notice of the proposed suspension, revocation, fine, or other sanction. Written notice shall be mailed to the licensee at the address contained in the license and, if different, at the last address furnished by the licensee. Such written notice shall issue at least ten days prior to the date set for public hearing, and delivery shall be complete upon mailing unless the recipient provides sufficient evidence that such notice was not delivered to the postal address at least three business days in advance of the hearing date.

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, no part of the fees paid therefor shall be returned to the licensee.

(4)(a) 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.

(b) The fine accepted shall be not less than five hundred dollars (\$500.00) nor more than one hundred thousand dollars (\$100,000.00).

(c) Payment of a fine pursuant to the provisions of this subsection (4) 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.

(5) Upon payment of the fine pursuant to subsection (4) of this section, the Board of County Commissioners shall enter its further order permanently staying the imposition of the suspension.

(6) In connection with a petition pursuant to subsection (4) 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 of County Commissioners 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.

(7) If the Board of County Commissioners does not make the findings required in subsection (4) 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 Rules and Regulations

The Clerk and Recorder may make such reasonable policies as may be necessary for the purpose of administering and enforcing the provisions of this Ordinance and any other ordinances or laws relating to or affecting the licensing and operation of retail and medical marijuana establishments.

Sec. 16. Judicial Review.

Decisions by the Board of County Commissioners are subject to judicial review pursuant to the State Administrative Procedure Act.

Sec. 17. General Provisions.

- (1) If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.
- (2) If any part or parts of any previous resolution, regulation, or ordinance of the Board of County Commissioners of the County of Grand, State of Colorado is in contradiction to this Ordinance, said part or parts of the previous resolution, regulation, or ordinance be and are hereby repealed, rescinded, and of no further effect or force, without affecting the validity of any other portion or the remainder of the previous resolution, regulation, or ordinance.
- (3) Where any provision of this Ordinance conflicts with any other provision of this Ordinance, or any law, the more stringent requirement, regulation, restriction or limitation shall apply.

Section 18. Repealer and Survival of Existing Licenses

- (1) This Ordinance hereby repeals and replaces Grand County Ordinance No. 18.
- (2) Notwithstanding the repeal of Ordinance No. 18, all licenses issued pursuant to that ordinance that are in effect as of February 1, 2022, and in good standing, shall remain in effect until the expiration date previously established for the license. Such licenses are eligible for renewal under the terms, conditions and procedures for renewal established in this Ordinance.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, THIS 4TH DAY OF JANUARY, 2022.

There being no further business to come before the Board, the meeting was adjourned at 11:45 a.m. The minutes were prepared by Clerk and Recorder Sara L. Rosene. Approved this 18th day of January 2022.

Kristen Manguso, Chair

Attest:

Sara L. Rosene, Clerk and Recorder