

## Grand County Clerk and Recorder Marijuana License Review

To: Grand County Board of County Commissioners  
From: Sara L. Rosene, Grand County Clerk and Recorder  
Date: April 25, 2017  
Re: Retail Marijuana Store (the term "retail marijuana" is commonly known as "recreational marijuana")  
Applicant: Highway 40, LLC dba  
Bonfire Cannabis Company  
Dane Casterson, Owner  
Nathan Myers, Owner  
Location: 8 County Road 821  
Tabernash, CO 80478  
Zone District: Business  
Applicable  
Regulations: Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance #14 and Ordinance #14-1  
Request: The Applicant is requesting a County Retail Marijuana Store License

### **Discussion:**

Grand County Board of County Commissioners passed Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance #14 and Ordinance 14-1 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. 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.

The applicant for this Retail Marijuana Store is Highway 40, LLC dba Bonfire Cannabis Company. Dane Casterson and Nathan Myers are the owners of the business. The proposed location is 8 County Road 821, Tabernash. The building is owned by Tabernash Properties, LLC. The lease ends March 10, 2021.

Applications for Retail Marijuana Licenses are submitted to the State of Colorado Marijuana Enforcement Division. The State then begins its review process. If additional documentation is needed, it is requested of the applicant. This information is not forwarded to the local authority by the State. The state then must make a determination to approve or deny the license no sooner than 45 days and no later than 90 days. Once the license is approved, the Conditional State license is remitted to the local authority.

Grand County uses the initial state license application and the County application to start the review process.

Grand County makes the notifications required in the County Ordinance. The County Clerk's review includes the following:

1. Review of the initial state application.
2. Review of the documents included with the County application.
3. Contact with both the state and the applicant to obtain any additional documents or to receive clarification.

During the review process, the County Clerk's Office makes courtesy notification to all landowners, taxing districts, hospitals, and towns within 1,000 of the proposed license location.

After the final review, the Clerk and Recorder schedules a public hearing to be heard by the Board of County Commissioners.

## **Compliance with Grand County Resolution No. 2014-1-26 and Ordinance #14 and Ordinance #14-1**

*"Retail Marijuana Store" has the same meaning as defined in section 16(2)(n) of article XVIII of the state constitution.*  
"Retail marijuana store" means any entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers."

### **Section 5 – Ordinance #14 – Application**

County application:

- A. **Cover Letter**  
Complete
- B. **State Application**  
Applicant has been asked to verify the Sales Tax number. The applicant and license do not match.
- C. **Trade Name Registration**  
Complete
- D. **Certificate of Good Standing from Colorado Secretary of State**  
Complete
- E. **Entity Documents**  
Articles of Organization – Applicant has been asked to provide Articles of Organization for Highway 40 LLC.  
Operating Agreement – Applicant has been asked to modify the agreement to indicate that assets that are regulated products such as marijuana be destroyed or distributed in accordance with state statutes and the MED regulations.
- F. **Documents showing legal possession**  
Applicant has been asked to revise both the lease and sub-lease to correct the legal description.  
Applicant has been asked to revise the lease and sublease to limit the landlord's access. (Articles 14 and 21) The landlord must be accompanied by a badged employee or a badged MED employee.
- G. **Diagram of Premise**  
Applicant has been asked if there is any restricted access in the premise.
- H. **Financial Documents (Notes, Security Notes, Financial Obligations, Funding Sources)**  
Complete
- I. **Copies of Inspections, Violations, Orders to Show Cause, Summary Suspensions, Administrative Holds**  
N/A
- J. **Current Colorado Sales Tax Licenses and Colorado Retail Marijuana License Bond**  
Applicant has been asked to verify the Sales Tax number. The applicant and license do not match.
- K. **Security Plan, Burglar Alarm and Contract**  
Applicant has been asked to correct the Security Plan noting that it complies with all Retail Marijuana regulations and the regulations of Grand County (not Tabernash).  
Applicant has been asked to provide a current service agreement.
- L. **County Fees Submitted to the State**  
Complete

**M. County Submitted Fees**

Complete

**N. Grand County Marijuana Business License Application, Memorandum of Understanding, Owners and Managers Form Affidavit of Lawful Presence**

Applicant has been asked to verify the Sales Tax number. The applicant and license do not match.

**O. Grand County Department of Community Development Marijuana License Review**

Complete

**P. Letter from Applicant regarding previous Marijuana License**

Complete

**Q. Supplemental information provided to the state**

Complete

**R. State of Colorado Marijuana Licenses**

Complete

**S. 1000 Foot Buffer Map and Land Use within 1000 foot buffer**

This has not been satisfied. Applicant has been asked to provide the map and land uses for all properties within the 1000 foot buffer.

Applicant has been asked to indicate the proximity of the property to the nearest church, school, day care facility, alcohol or drug treatment facility. The applicant must also provide the proximity to the nearest marijuana establishment. Based on the business address provided, it appears that RM Concepts is the closest establishment.

**T. Applicants Marijuana Management Plan**

Applicant has been asked to add RM Concepts LLC as one of the marijuana establishments within the 2-mile radius.

**U. Assessor's Schedule Number and Property Record**

Complete

**V. Proof of Taxes Paid**

Complete

**W. Marijuana Management Plan**

Applicant has been asked to amend the Marijuana Management Plan so that it pertains to this location and not its other licenses. The Plan makes reference to Lost Creek Ventures Inc instead of Highway 40 LLC. It also refers to medical marijuana rather than retail marijuana. The organizational charts appear to be other licenses.

Applicant has been asked to provide the waste disposal plan for the license.

Applicant has been asked to provide information on community outreach efforts.

Applicant has been asked to provide updated SOPs to address this facility.

**X. Occupational / Key License Applications**

The applicant has been asked to provide updated Red Cards for both Dane Casterson and Nathan Myers.

**Y. Notification made by the Clerk's Office**

**Section 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.***

On January 10, 2017 the applicant made application to the Board of County Commissioners. Publication in the Middle Times was on March 14, 2017 and posting was completed on March 16, 2017.

***(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, such other information as may be required to fully apprise the public of the nature of the application. 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.***

Signs posted are in compliance with this section. A postcard notification was made to all landowners within 2 miles of the proposed location. Notification was made by email to all individuals on the interested party list. The complete file is posted on the County's website. A second notification was sent with the hearing date and time to these same entities.

### **Section 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 of 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 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 license to such licensee, and no application for a second or additional license that would have effect or 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 establishments 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.**

The County Clerk and Recorder has received a number of written comments by mail or email. The count will be made available at the hearing. All comments are posted at [www.co.grand.co.us/720/Applications-in-Process](http://www.co.grand.co.us/720/Applications-in-Process)

The Clerk and Recorder has made every effort to determine the proximity to the license of every individual who signed the petitions. The efforts we employ to determine the proximity to the license for comments and petitions is

1. Check voter registration information
2. MV Registration Information
3. Driver License information
4. Assessor’s property tax records

This count will be made available at the hearing.

Comments	Against	For	Neutral	Total
Within the 2 Mile Radius				
Outside the 2 Mile Radius/Unknown				

Note: There are comments on the web page and these number equate to people not comments. Two people on one comment would be counted as two comments.

**Section 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.***

Notification was made to Department of Planning and Zoning (Community Development), Grand County Sheriff’s Department, and East Grand Fire Protection District. Courtesy notification was made to all property owners within 2 miles of the premises, all taxing districts in which the property is located, Kremmling Memorial Hospital District dba Middle Park Medical Center, Grand County EMS, Grand County Public Health, Grand County Juvenile Services, Grand

County Road and Bridge, Colorado State Patrol, Grand County Rural Health Network, Town of Winter Park, Fraser/Winter Park Police Department, Colorado River Water Conservation District, East Grand School District, Grand County Social Services, Fraser Valley Metropolitan Recreation, Middle Park Conservation District, Grand County Library District, East Grand County Fire Protection District No 4, Town of Granby, Town of Fraser, Tabernash Meadows Water and Sanitation District, Grand County, Grand County Assessor, and Colorado Department of Transportation.

***(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 determine 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.***

A background check for the initial application was performed by the State of Colorado.

***(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 establishments, 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 use 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 premise, 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.***

## **Comments**

The Grand County Clerk and Recorder has received documentation identified by Grand County Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance No. 14 and Ordinance No. 14-1. The fees required by law and statute have been remitted.

All standard language and conditions of the Grand County Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance No. 14 and Ordinance No. 14-1 shall be made part of any approved license.

If, after taking testimony at the public hearing, the Board of Commissioners approves the license, the Clerk and Recorder recommends that a license be issued only after the following items are provided.

1. Provide correct Sales Tax number or clarify what has been provided.
2. Provide:
  - a. Articles of Organization for Highway 40 LLC.
  - b. Operating Agreement with modification to indicate that assets that are regulated products such as marijuana be destroyed or distributed in accordance with state statutes and the MED regulations.
3. Provide both the lease and sub-lease to correct the legal description. In addition, provide a revised lease and sublease to limit the landlord's access. (Articles 14 and 21) The landlord must be accompanied by a badged employee or a badged MED employee.
4. Provide clarification with regard to any restricted access on the premises.
5. Provide a Security Plan noting that it complies with all Retail Marijuana regulations and the regulations of Grand County (not Tabernash). Provide a current service agreement.
6. Provide the map and land uses for all properties within the 1000 foot buffer. Provide a list or map to indicate the proximity of the property to the nearest church, school, day care facility, alcohol or drug treatment facility. The applicant must also provide the proximity to the nearest marijuana establishment. Based on the business address provided, it appears that RM Concepts is the closest establishment.
7. Provide an amended Marijuana Management Plan.
  - a. Make reference to correct location
  - b. Make reference to correct license type
  - c. Make reference to correct organizational chart
  - d. Make reference to a waste disposal plan
  - e. Make reference to community outreach efforts
  - f. Make reference to the Standard Operating Procedures to address this facility
8. Provide updated Red cards for Dane Casterson and Nathan Myers.