



Community Planning & Permitting

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BOARD OF COUNTY COMMISSIONERS HEARING BOULDER COUNTY, COLORADO

THURSDAY, NOVEMBER 30, 2023 AT 9:30 A.M.

All commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join through Zoom or in-person at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder. There will also be a kiosk located in the lobby of the 3rd Floor to sign up for in-person public comment. For questions regarding in-person hearings, please email Brianna Barber at bbarber@bouldercounty.org or call 303-441-3500.

HEARING PACKET

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BOARD OF COUNTY COMMISSIONERS

November 30, 2023, 9:30 a.m.

Hearing Room, 3rd Floor

Boulder County Courthouse

Report on the proposed modifications to the Boulder County Marijuana Licensing Regulations

Staff: Kathy Gissel, Marijuana Authority; Michael Koertje, Assistant County Attorney

BACKGROUND:

On October 29, 2013, the Board of County Commissioners (the “BOCC”) adopted the initial Boulder County Marijuana Licensing Regulations (the “Regulations”) in Resolution 2013-102 to establish and control the licensing of marijuana-related businesses in unincorporated Boulder County. These Regulations have been updated periodically, most recently in Resolution 2018-19, adopted on February 22, 2018.

Attached as Exhibit A are further proposed amendments to the Regulations. In large part, the proposed amendments were amendments to references necessitated by the combination of the statutory Colorado Medical Marijuana Code and Colorado Retail Marijuana Code into the combined Colorado Marijuana Code (“the CMC”), and a similar combination into the Colorado Marijuana Rules maintained by the Colorado Department of Revenue, or by changes in terminology in the CMC, or in the changes in names of County departments.

Other highlights to the proposed changes include:

- 1) References to conversions from Medical to Retail Marijuana businesses have been deleted since these no longer occur.
- 2) A prohibition against online sales by stores in Article 8.5 was deleted, as the CMC now allows these sales with pickup of the products in person and with sufficient identification.
- 3) Article 13(b) now would provide hearings for Orders to Show Cause for alleged violations.
- 4) The fee structure in Article 14(b) is deleted so that public hearings are not required for all fee changes, though the BOCC would still approve any changes in a public meeting. The new proposed fee schedule is attached as Exhibit B.

RECOMMENDATION:

Staff recommends the Board adopt the proposed changes to modify the Boulder County Marijuana Licensing Regulations, and to approve the new fee schedule, both changes effective January 1, 2024.

Attachments

- 1) Exhibit A: Proposed amended Boulder County Marijuana Licensing Regulations, with additions in red and deletions struck through.
- 2) Exhibit B: Proposed amended fee schedule.
- 3) Proposed Resolution 2023-93, with the proposed final regulations as Exhibit A.

BOULDER COUNTY MARIJUANA LICENSING REGULATIONS

Article 1: Purpose and Intent

Section 14 of article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado ~~Medical Marijuana Code, article 10 43.3 of title 44-12, C.R.S. (the “CMC” “CMMC”) and the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. (the “CRMC”).~~ In addition, the Colorado Department of Revenue adopted ~~1 CCR 212-3-1 CCR 212-1~~, the ~~Colorado Medical Marijuana Rules (“the “CMR” MMR”) and 1 CCR 212-2, the Retail Marijuana Rules (“the RMR”).~~ The ~~CMC CMMC, CRMC, MMR, and CMR RMR~~ authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical and retail (i.e. non-medical) marijuana businesses within their jurisdictions.

The purpose of these Regulations is to authorize licensing in unincorporated Boulder County as provided in ~~Section 16, article XVIII of the Colorado Constitution and §§44-10-104 12-43.3 301, 12-43.4 104(3) and 12-43.4 301~~, C.R.S., as amended; to establish specific standards and procedures for local licensing of Marijuana Businesses and Establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Boulder County by prescribing the manner in which Licensed Marijuana Businesses can be conducted in the county. By enacting these Regulations, Boulder County does not intend to encourage or promote the establishment of any business or operation, or the ~~commitment commission~~ of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these Regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Article 2: Defined Terms

The definitions in the ~~CMC CMMC, §44-10-103 12-43.3 104~~, C.R.S., as amended, ~~and the CRMC, § 12-43.4 103, C.R.S., the CMR R1-115 MMR M103, and the RMR R103~~ shall apply to these Regulations except as follows:

- a) **“Authority”**: The Boulder County Marijuana Licensing Authority.
- b) **“Applicant”**: A Person that has submitted an application for licensure or registration, or for renewal of licensure or registration, pursuant to these Regulations that was accepted for review but has not been approved or denied.
- c) **“Building Official”**: The Chief Building Official in the Boulder County ~~Community Planning & Permitting Department~~ ~~Land Use Department~~.
- d) **“Dual Operation”**: A facility that simultaneously operates a licensed Medical Marijuana Business and licensed Retail Marijuana Establishment.
- e) **“Electronic ID Scanner”**: A device that is capable of quickly and reliably confirming the validity of an identification using computer processes.

~~f) **“Licensed Marijuana Business”**: A licensed Medical Marijuana Business or Retail Marijuana Establishment.~~

~~f) _____~~

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~~g)~~ “Local Jurisdiction”: The city, county, municipality, or city and county where the Licensed Marijuana Business is located.

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- ~~h)g)~~ “Off-Premises Storage Facility”: A permitted facility that is an extension of the Licensee’s licensed premises, that allows a Licensed Marijuana Business to store Medical Marijuana, Medical Marijuana ~~Infused~~ Products, Retail Marijuana, or Retail Marijuana Products that are part of its finished goods inventory.
- ~~h)~~ “Off-Premises Storage Permit”: An extension of a Licensed Marijuana Business’ licensed premises that is subject to all applicable medical or retail marijuana regulations.
- ~~h)i)~~ “State”: The Marijuana Enforcement Division (~~the “MED”~~) of the Colorado Department of Revenue.

Article 3: Local Licensing

- a) Local License Required. It is unlawful to operate any business in unincorporated Boulder County for which a license is required under the ~~CMC~~ or ~~CRMC~~ CMR without first having obtained a local license under these Regulations and a State license ~~under State code~~.
- b) Dual Licenses. Dual Operations are permitted so long as appropriate State and Boulder County licenses have been issued and remain valid and active for both operations.
- c) No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these Regulations, the ~~CMC~~, ~~the CRMC~~, Boulder County zoning approvals, or Boulder County building permits. To lawfully engage in the business of selling, cultivating, testing, storing, transporting, or manufacturing of marijuana in unincorporated Boulder County, all persons must obtain a license or permit under these Regulations. Such a license or permit is a revocable privilege subject to the will and scrutiny of local and State authorities.

Article 4: Relationship to Other Laws

Boulder County intends to follow and incorporate the requirements and procedures in the ~~CMC~~, ~~the CRMC~~, ~~the MMR~~, and the ~~RMRC~~ CMR. Whenever possible, these Regulations and any licenses issued under these Regulations shall be construed to comply with federal law, specifically including the Controlled Substances Act.

Article 5: Authority

The Boulder County Board of County Commissioners (the “Board”) may designate, in its discretion, a person or persons to act as the Boulder County Marijuana Licensing Authority. The Authority shall serve at the pleasure of the Board and be compensated on terms mutually agreeable to the Board and the Authority. The Authority shall accept and determine applications and fees, investigate potential licensing violations, take action against licensees, and perform other duties as provided by these Regulations.

Article 6: Licenses

The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: Medical Marijuana Center-Store license; Medical Marijuana Optional-Premises Cultivation license; Medical Marijuana ~~Infused~~ Products Manufacturer license; Medical Marijuana Testing Facility license; Medical Marijuana Transporter license; Marijuana Research

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and Development license; ~~Marijuana Research and Development Cultivation license~~; Retail

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Marijuana Store license; Retail Marijuana Cultivation Facility license; Retail Marijuana Products ~~Manufacturing Manufacturer~~ Facility license; Retail Marijuana Testing Facility license; ~~and~~ Retail Marijuana Transporter license; ~~and~~ In addition, an Off-Premises Storage Permit may be issued. A Boulder County license shall only be required for Medical or Retail Marijuana Transporters if the Transporter will have a Licensed Premises or Off-Premises Storage Facility in the County. The license requirements in these Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, production, distribution, testing, storage, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the ~~CMMC and the CRMCCMC~~.

Article 7: Licensing Procedure

- a) General Procedure. The Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority may defer to the State to enforce compliance with the requirements in the ~~CMMC and the CRMCCMC~~ and any other State regulations not covered by these Regulations. The Authority shall grant or deny a license or permit based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application or permit that is not in full compliance with these Regulations. The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these Regulations.
- b) Application forms.
 1. All applications for ~~a new~~ Licensed Marijuana Businesses shall be made upon ~~current forms provided by the State and shall include the applicable~~ Boulder County ~~New Marijuana Business/Establishment License Application form or the Boulder County Marijuana Business/Establishment Off-Premises Storage Permit Application application~~ form ~~and along with all appropriate~~ documentation required by the Authority. The burden of proving an Applicant's qualifications for licensure rests, at all times, with the Applicant.
1.2. An application for a Licensed marijuana business shall not be filed until the use has been approved pursuant to the Land Use Code.
 - ~~2. All applications for conversions shall be made upon forms provided by the State and shall include the Boulder County Marijuana Business/Establishment Conversion Application form and all documentation required by the Authority.~~
 3. All applications must be complete before being accepted or considered by the Authority.
 4. All applications must include all attachments or supplemental information required by the form.
 5. All applications must be accompanied by a full remittance of the application and license fees.
 6. The Authority may refuse to accept an incomplete application.
 7. An Applicant's failure to provide any requested information by the Authority

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deadline may be grounds for denial of the application.

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~~8. The sum of the percentages of ownership listed on an application of all Owners of a Licensed Marijuana Business must equal 100%.~~

- c) Other County Departments. Upon receipt of an application under 7(b) above, the Authority shall circulate the application to the ~~Land Use Department~~Community Planning & Permitting Department's Building Inspectors, Zoning, and Access and Engineering teams, ~~the Transportation Department~~the Public Works Department, the Public Health Department, and the Treasurer's Office. These departments should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute approval of the license.

Article 8: Licensing Requirements

- a) Before issuing a local license for a new Licensed Marijuana Business, the Authority shall determine that all of the following requirements have been met in addition to any requirements in the ~~CMMC, CRMC, MMR, CMC~~ and ~~RMRCMR~~:
1. The appropriate application is complete and all fees have been paid;
 2. The ~~Land Use~~ Director of Community Planning & Permitting or designee has determined:
 - a. The use is permitted and the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the parcel;
 - c. All existing or proposed signage meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting meets the Land Use Code's lighting requirements;
 - e. All structures on the proposed Licensed Premises have been inspected by the Building Official or designee, who has determined that all required permits and a Certificate of Occupancy or final inspection approvals have been obtained;
 - f. The proposed Licensed Premises complies with the Boulder County Building Code and Amendments; and
 - g. No Building Code violations exist in the structure containing the proposed Licensed Premises.
 3. The Public Health Director or designee has determined the proposed Licensed Premises has all required well and septic permits or is adequately served by public water and sewer;
 4. The Treasurer or designee has determined there are no overdue property taxes for the property or any property in the county owned by the business owner(s); and
 5. The County Engineer or designee has determined the proposed Licensed Premises has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the proposed site, and has suitably mitigated any traffic hazards associated with

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the use.

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- ~~b) Additionally, before issuing a local license for a conversion from a Medical Marijuana Business to a Retail Marijuana Establishment Business, or a Retail Marijuana Establishment Business to a Medical Marijuana Business, the Authority shall determine that all of the following requirements have been met:~~
- ~~1. The appropriate application is complete and all fees have been paid;~~
 - ~~2. The business has a current and valid license for the premises issued by the State and local Authority;~~
 - ~~3. The proposed activity must take place on the same parcel as the current licensed area unless a modification has been approved as provided for under Article 11(d) below;~~
 - ~~4. No offensive odors have been reported, or odor issues have been rectified as confirmed by Public Health;~~
 - ~~5. For a Dual Operation, documentation of the required signage and receipt labeling has been provided; and~~
 - ~~6. No outstanding violations of these Regulations or licensing requirements exist on the property where the proposed establishment is located.~~

e)b) Before issuing a new Off-Premises Storage Permit, the Licensed Marijuana Business, along with meeting all of the requirements of Article 8(a), will need the following requirements met and approved by the Authority:

1. Prior to submitting an application for an Off-Premises Storage Permit, the Licensed Marijuana Business must obtain acknowledgement of good standing from the relevant Local Jurisdiction. A copy of this acknowledgment must be submitted with the application.
2. No Medical Marijuana, Medical Marijuana-Infused Products, Retail Marijuana, or Retail Marijuana Products may be stored within a permitted storage facility until the Authority has approved the permit and has been provided a copy of the Off-Premises Storage Permit from the State.
3. Any Off-Premises Storage Permit issued by the Authority shall be conditioned upon the Licensed Marijuana Business' receipt of all required Local Jurisdiction and State approvals or acknowledgments.
4. ~~Off-Premises Storage Permit Authorized.~~ A Licensed Marijuana Business may only store Medical Marijuana, Medical Marijuana-Infused Products, Retail Marijuana, or Retail Marijuana Products in their Licensed Premises or in their one permitted Off-Premises Storage Facility. Medical Marijuana Transporters and Retail Marijuana Transporters are allowed to have more than one permitted Off- Premises Storage Facility.
5. Permitting. To obtain a permit for an Off-Premises Storage Facility, a Licensed Marijuana Business must apply on current Local Jurisdiction and State forms and pay any applicable fees.
6. Extension of Licensed Premises. A permitted Off-Premises Storage Facility shall constitute an extension of the Licensed Marijuana Business' Licensed Premises, subject to all applicable Local Jurisdiction and State regulations.
7. Limitation on Inventory to be Stored. A Medical Marijuana CenterStore, Optional Premises-Cultivation Operation, Medical Marijuana-Infused

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Products

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Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and a Retail Marijuana Products ~~Manufacturing~~ ~~Manufacturer~~ Facility may only have upon the permitted Off-Premises Storage Facility Medical Marijuana, Medical Marijuana ~~Infused~~ Products, Retail Marijuana, or Retail Marijuana Products that are part of the particular Licensed Marijuana Business' finished goods inventory.

8. Restrictions. The permitted Off-Premises Storage Facility may be utilized for storage only. The Licensed Marijuana Business may not sell, cultivate, manufacture, process, test, or consume any Medical Marijuana, Medical Marijuana ~~Infused~~ Products, Retail Marijuana, or Retail Marijuana Products within the premises of the permitted Off-Premises Storage Facility.

Article 8.5: Operation Requirements

- a) Hours of Operation. Medical Marijuana ~~Centers~~ ~~Stores~~ and Retail Marijuana Stores must be closed to the public and no sale of marijuana may occur upon the premises between the hours of 10:00 pm and 8:00 am.
- b) Odor Control. Odors should not escape the property line. If any complaints are received, licensees will work with Public Health to rectify air quality concerns. Unresolved air quality complaints may be basis for action on the license pursuant to Article 13 of these Regulations.
- c) Visibility of Operations. All cultivation, production, storage, display, testing, and sales of marijuana and marijuana ~~infused~~ products must not be visible from the exterior of the business.
- ~~d) Direct Sales. All retail sales of Retail Marijuana must be in person, directly to the purchaser. No sales may be made by telephone, internet, or other means of remote purchase.~~
- e)d) Giveaways. Licensed Marijuana Businesses may not distribute marijuana or marijuana ~~infused~~ products free of charge to a consumer.
- f)e) Advertising. All Licensed Marijuana Businesses are subject to the requirements of the Land Use Code and the restrictions on advertising and marketing under the ~~CMMC and~~ ~~CRMCMC and~~ CMR. In addition, no advertisement for marijuana or marijuana products is permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet;
(2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.
- g)f) Sponsorship. A Licensed Marijuana Business may sponsor a charitable, sports, or similar event, but a Licensed Marijuana Business must not engage in advertising at, or in connection with, such an event unless the Licensed Marijuana Business has reliable evidence that no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.

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~~h)g)~~ Additional requirements for Medical Marijuana ~~Centers~~ Stores and Retail Marijuana Stores:

1. Receipts for Retail Marijuana Stores. Receipts must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."
2. Proof of age. Proof of age of every person entering the Medical Marijuana ~~Center~~ Store or Retail Marijuana Store must be verified. Verification can be done with either by the Licensee using an Electronic ID Scanner or physically inspecting an acceptable form of identification listed in the CMC and CMR. ~~the event a person has a form of valid identification that cannot be scanned, entry into the Medical Marijuana Center Store or Retail Marijuana Store may be allowed if the identification is physically inspected by the Licensee and is listed as an acceptable form of identification in the MMR CMC and RMRCMR.~~

~~h)h)~~ Sustainability. All marijuana cultivation operations must meet the following requirements, unless the Authority, in consultation with the Building Official, grants an extension of time for good cause shown.

- ~~1.~~ A sustainability report must be submitted to the ~~Building Official~~ Licensing Authority that documents all electrical energy consumed including any fuel associated with generators or CO2 generation since the previous license expiration quarter or the start date of the operation. This report must be made on the form provided by the ~~Licensing Authority~~ Building Official and must contain all required supplemental information. The sustainability report is due on a yearly basis at time of license renewal. ~~by the end of business day as outlined below. Failure to submit a sustainability report prior to the due date will result in a late fee pursuant to Article 14(d). Two or more reports submitted after the report due date within one calendar year will be considered a license infraction pursuant to Article 13.~~

Usage Dates	Report Due
January	Last business
April	Last business
July through	Last business
October	Last business

- ~~2.1.~~ The sustainability report must be created and signed by an independent third-party commissioning agent who is approved by the Building Official, unless the facility is participating in the Boulder County Energy Impact Offset Fund (the "BCEIOF"), as provided in subparagraph (5). All fuels must be converted to kilowatt hours ("kWh") using the rate of 3412 Btu = 1 kWh. Documentation of source of consumption data is required. If a cultivation facility is participating in the BCEIOF, then energy usage does not have to be separately reported in the sustainability report.

- ~~3.2.~~ A cultivation operation must directly offset 100% of electricity use through a verified subscription in a Community Solar Garden, renewable energy generated

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on site, or equivalent approved by the Building Official. A cultivation operation must directly offset 100% of any natural gas, liquid fuel, bio-fuel, or propane consumption, if used to power an onsite electrical power generator, CO2 generator, or unvented room heater, through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent

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approved by the Building Official. The offset must be demonstrated in the sustainability report approved by the Building Official.

~~4.3.~~ All lamps must be disposed of at a hazardous waste or comparable facility and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented.

~~5.4.~~ In lieu of the offset requirements contained in subsections (2) & (3) of this article, a facility may choose to participate in the BCEIOF. The owner(s) of such facilities must sign a BCEIOF agreement in which they agree to abide by all terms, requirements, and conditions of the BCEIOF program. Failure to pay the full amount of a BCEIOF invoice within ~~30~~ 60 days of the date of the invoice will result in a late fee pursuant to Article 14(d). Two or more invoices paid after ~~30~~ 60 days of the date of the invoice within one calendar year will be considered a license infraction pursuant to Article 13.

~~h)~~ Reporting of Crime on a Licensed Premise or Otherwise Related to a Licensed Marijuana Business. A Licensed Marijuana Business shall report to the Authority any discovered plan or other act or omission of any person: (1) to commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the Licensed Marijuana Business; or (2) that results in injury to any person on the Licensed Premises or otherwise creates a risk to public health or safety. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (j) alters or eliminates any obligation a Licensed Marijuana Business or Licensee may have to report criminal activity to a local or state law enforcement agency.

Article 9: Inspection

By signing and submitting a license application, the owner of the Licensed Marijuana Business certifies that the applicant has received permission from the property owner to allow inspections as may be required under State or local licensing law. In addition, the owners authorize the Authority or designee and the Building Official or designee, to enter upon and inspect the premises. Upon request, the owner of the Licensed Marijuana Business shall timely provide the Authority with records related to the business. This section shall not limit any inspection authorized under any other provision of law or regulation.

Article 10: Decision and Appeal

- a) The Authority, in its sole discretion, may delay issuing a decision on a license application while the applicant is working toward bringing a noncompliant property into compliance. Applicants receiving the benefit of such a delay must proceed to correct the noncompliance diligently and in good faith or be subject to denial.
- b) Once the Authority has completed a review of the application, ~~pursuant to §44-10-104, C.R.S.,~~ it shall either issue a local license or a denial letter that specifies the reasons for denial. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial

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letter, or issue a

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local license. A denial letter, revised denial letter, or local license denial is subject to judicial review as specified in ~~to C.R.S. §12-43-3-80144-10-304(1), C.R.S. or Colorado Rule of Civil Procedure 106(a)(4), as applicable~~, but issues that were or could have been decided by the Board of Adjustment may not be raised in such a proceeding.

- c) A determination by the ~~Land Use~~ Director of Community Planning & Permitting or designee, under Article 8(a)(2) above, that the use is not permitted or that the owner or operator has not obtained the required approvals under the Land Use Code, shall constitute a final decision of the Director appealable to the County Board of Adjustment under the applicable provisions of Article 4 of the Land Use Code. When the Authority receives such a determination, the Authority shall not issue a decision on the licensing application for thirty days. If the applicant files an appeal to the Board of Adjustment, the Authority shall not issue a decision on the licensing application until such appeal is finally resolved, unless a separate reason for denial exists.
- d) The Authority will not issue a conditional license approval and shall determine that all of the requirements outlined in Article 8 have been met and the Applicant has been issued a valid license as required by the ~~CMMC and the CRMCCMC~~ before issuing a local license for a new Licensed Marijuana Business.

Article 11: Changes in License

All County forms, copies of corresponding State forms, and fees must be submitted to the Authority to modify a business premise, location, or ownership and shall be made at least thirty days prior to the anticipated change. If forms are received less than thirty days prior to the change or after the change has occurred a late fee may be charged. All information provided on State and Boulder County forms must be consistent. The application must include the application fee, be complete in every material detail, and be filled out truthfully.

- a) Modifications During Licensing Process. No modifications may be made to the business or establishment until the license is issued by the Authority.
- b) Transfer/Change of Ownership. A license or Off-Premises Storage Permit shall be transferable only upon approval from the State and acknowledgement ~~approval~~ by the Authority ~~and the State~~. Any change in ownership shall require approval ~~acknowledgement~~ by the Authority and be ~~requested~~ submitted on a Boulder County Change of Ownership Application.
 - 1. The Applicant(s) or transferee(s) for any license transfer or change of ownership shall not operate the Licensed Marijuana Business until the transfer of ownership request is approved in writing by the State and the Authority.
 - 2. The current Owner(s) or proposed transferee(s) of the license at date of issue retain full responsibility for the Licensed Marijuana Business identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the State and the Authority. A violation of this requirement shall constitute grounds to deny the transfer of ownership request and may result in disciplinary action against the license(s) of the current Owner(s) and/or the Licensed Marijuana Business.
 - 3. If the Licensed Marijuana Business or any Licensees affiliated or associated with

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the business are applying to transfer ownership and are involved in an

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administrative investigation or administrative disciplinary action, the following may apply:

- a. The transfer of ownership may be delayed or denied until administrative action is resolved; or
- b. If the transfer of ownership is approved in writing by both the State and the Authority, the transferee(s) may be responsible for the actions of the Licensed Marijuana Business and its prior owners, and subject to discipline based upon the same.
- c) *Change of Location*. A change to the location of a Licensed Marijuana Business shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form, including the procurement of all permits and approvals from all referral departments listed in 7(c) above. The license shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate at the former location. At no time may a Licensee operate or exercise any of the privileges granted pursuant to the license at both locations. For good cause shown, the 120 day deadline may be extended for an additional 120 days. To be approved for a change of location the new location must comply with Articles 8 and 8.5 of these Regulations.
- d) *Modification of Premises*. A modification of any building structure where a Licensed Marijuana Business is located is subject to all applicable provisions of the Land Use Code and County building code. Any modification of premises shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.
- e) *Change of Mailing Address*. ~~Change may~~ Notification is required and must be done ~~be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on a~~ the Boulder County Marijuana Licensing Report of Changes form.
- f) *Change in Trade Name*. Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.

Article 12: Term of License or Permit; Renewal

- a) *Term of License or Permit*. Boulder County ~~Medical Marijuana Business licenses, Retail Marijuana Establishment licenses,~~ and Off-Premises Storage Permits shall be valid for a period of one year or upon the expiration and non-renewal of the associated license or permit, whichever occurs first.
- b) *Renewal of License or Permit*. Before renewing a local license for a Licensed Marijuana Business, the Authority shall determine that all of the following requirements have been met in addition to any requirements in the [CMMC](#), [CRMC](#), [MMRCMC](#), and [RMRCMR](#):
 1. A renewal application, renewal fee, operating fee, and any required accessory license operating fees must be submitted at least forty-five days before the expiration of the license or permit, or a late fee may apply. Failure to submit a

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renewal application prior to the expiration date of a license or permit may result in the revocation of a license or permit on the expiration date.

2. No violations of these regulations exist. Renewal of any local license or permit is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place.
3. The ~~Land Use~~ Director [of Community Planning & Permitting](#) or designee has determined:
 - a. The use is permitted and the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the Licensed Premises;
 - c. All existing or proposed signage under the control of the licensee meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting under the control of the licensee meets the Land Use Code's lighting requirements;
 - e. The Licensed Premises have been inspected by the Building Official or designee, who has determined that all required permits and a Certificate of Occupancy or final inspection approvals have been obtained;
 - f. The Licensed Premises complies with the Boulder County Building Code and Amendments; and
 - g. No Building Code violations exist on the Licensed Premises.
4. The Public Health Director or designee has determined:
 - a. The Licensed Premises has all required well and septic permits or is adequately served by public water and sewer; and
 - b. All reports of offensive odors have been rectified as confirmed by Public Health.
5. The County Engineer or designee has determined the Licensed Premises has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the site, and has suitably mitigated any traffic hazards associated with the use.
6. If the Assessor or designee has determined that the Licensee has not filed a personal property schedule as required by ~~C.R.S.~~ §39-5-108, [C.R.S.](#) for the most recent applicable year, the license shall not be renewed unless a schedule is filed prior to the expiration date of the license or permit.
7. If the Treasurer or designee has determined that there are overdue property taxes for either the real property where the Licensed Premises is located or for the personal property owned by the Licensed Marijuana Business, the license shall not be renewed, with the exception that if the business owner is current pursuant to a payment plan with the Treasurer for personal property taxes, the license may be renewed.
8. If the Licensee is participating in the BCEIOF, the Licensee has submitted all required sustainability reports and there are no overdue BCEIOF invoices related to the Licensee's participation in the BCEIOF, with the exception that if the Licensee is current pursuant to a payment plan for BCEIOF invoices, the license

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may be renewed.

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- c) If the Licensee timely applies for the renewal of an existing license, the Authority may administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- d) If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Authority accepts the application, then the Authority may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- e) License Not Renewed or Administratively Continued.
 - 1. In the event the license is not renewed prior to expiration, a Licensed Marijuana Business may not operate unless it has been administratively continued.
 - 2. If a Licensee files a renewal application after the date of expiration, the application will be treated as a new license application.
 - ~~2.3.~~ Renewal applications that are denied by the Authority may be appealed pursuant to §44-10-314, C.R.S.
- f) Licenses Subject to Ongoing Discipline and/or Suspension. Licenses that are the subject of a suspension, disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not timely renewed will expire.

Article 13: Violations

- a) Order to Show Cause. If the Authority has reasonable cause to believe that a Licensee has violated the ~~CMMC, CRMC, MMR, RMRCMC, CMR~~ or these Regulations, it shall issue an Order to Show Cause, specifically identifying the alleged violation(s), advising that action may be taken against the license, and giving the Licensee ten days to provide a response in writing and request a public hearing.
- b) If a public hearing has been requested within ten days of the issuance of the Order to Show Cause, the Authority shall set a hearing within 14 days, to be held within 30 days of the Order. The Licensee shall be given an opportunity to testify and call witnesses. The Authority may administer oaths and issue subpoenas for the testimony of persons or for documents to be produced.
- ~~b)c)~~ Decision. Based on the Licensee's response and any other evidence that has been presented, the Authority shall determine if a violation has occurred, and if so, the appropriate penalty. The Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
- ~~c)d)~~ Penalties. The Authority will make a determination regarding the type of penalty to impose based on the severity of the violation in the following categories:
 - 1. License Infractions. This category of violation is the least severe and may include, but is not limited to, air quality complaints, unauthorized modifications of the premises of a minor nature, failure to notify the Authority of a ~~minor~~ change in ownership, ~~two or more late-filed sustainability reports in a calendar year, or~~ two or more late paid BCEIOF invoices in a calendar year. The range of penalties for this category of violation include a verbal or written warning, license

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suspension, a fine per individual violation, or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include license restrictions.

~~2.~~ *License Violations*. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, unrectified odor issues, advertising and/or marketing violations,

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unauthorized modifications of the premises, or failure to notify the Authority of a change in ownership. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3.2. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, medical marijuana sales to non-patients, consuming marijuana on the Licensed Premises, marijuana sales in excess of the relevant transition limit, violations related to Dual Operations, or packaging or labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation. Sanctions may also include restrictions on the license.

d)e) Fines. Fines of up to \$3,000 for each offense may be imposed for a Licensee's violations. If a Licensee has had multiple violations within a three-year period, fines of up to \$5,000 for each offense may be imposed. If a license has been suspended pursuant to this Article for fourteen days or less, the Licensee may petition the Authority for a fine in lieu of suspension, and the Authority in its sole discretion may grant this request. Any fine must be paid within thirty days of a final decision by the Authority or the license will be suspended, unless the Authority grants a longer period.

e)f) Appeal Process. Within ten days of any decision by the Authority, the Licensee may provide a written response by submitting a letter to the Authority clearly stating its position. In response, the Authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A Licensee may continue to operate during the pendency of an appeal. The Authority may grant extensions of deadlines under this Article for good cause shown.

f)g) Upon Denial or Revocation of a State License. Any license issued under these Regulations shall be null and void if a court of competent jurisdiction determines that the issuance of local licenses violates federal law. Upon denial or revocation of a State license, all related local licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Article 14: Fee Structure.

- a) New Marijuana Business License and Off-Premises Storage Permit. Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable.

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The Board of County Commissioners has authority to set and amend fees.

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Application Fee	\$2,500
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

b) The Authority will maintain a fee schedule for applications, operating fees, conversions, renewals and administrative fees. The BOCC will approve all changes to this schedule, which is binding on Licensees.

~~b) Conversion Application. Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.~~

Application Fee	\$250
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

~~c) Renewal Application. A Renewal Fee will be required for every license renewal. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.~~

Renewal Fee	\$300
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

~~d) Administrative fees.~~

Transfer of Ownership	\$100
Change in Ownership Structure	\$50
Change of Location	\$2,500
Change in Mailing Address	\$50
Change in Trade Name	\$50
Modification of Premises— Building permit needed	\$500

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Modification of Premises — No building permit needed	\$50
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Late Fee	\$500
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~~The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable. The Board of County Commissioners has authority to set and amend fees.~~

Article 15: Severability

If any provision of these Regulations is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision shall be repealed or amended. All other provisions shall remain in full force and effect.

Article 14: Marijuana Licensing Fee Schedule

- a) *New Marijuana Business License and Off-Premises Storage Permit.* Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Application Fee	\$2,500
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250 <u>500</u>

- ~~b) *Conversion Application.* Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.~~

Application Fee	\$250
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

- ~~e)b) *Renewal Application.* A Renewal Fee will be required for every license renewal. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.~~

Renewal Fee	\$300 <u>800</u>
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250 <u>500</u>

- ~~d)c) *Administrative fees.*~~

Transfer of Ownership	\$100
Change in Ownership Structure	\$50
Change of Location	\$2,500
Change in Mailing Address	\$50

Change in Trade Name	\$50
Modification of Premises - Building permit needed	\$500
Modification of Premises – No building permit needed	\$50
<u>Non-permitted modification of premise - major</u>	<u>\$1,000</u>
<u>Late Fee</u>	<u>\$500</u>

Late Fee	\$500
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RESOLUTION 2023-93

A RESOLUTION ADOPTING AMENDMENTS TO THE BOULDER COUNTY MARIJUANA LICENSING REGULATIONS

Recitals

A. The Board of County Commissioners (the “Board”) passed Resolution 2013-102, adopting the Boulder County Marijuana Licensing Regulations (the “Regulations”) to authorize licensing in unincorporated Boulder County as permitted by state law; to establish specific standards and procedures for local licensing of marijuana-related businesses as provided by state law; and to protect the health, safety, and welfare of the residents and patients of Boulder County by prescribing the manner in which marijuana businesses can be conducted in the county, and has amended the Regulations by Resolutions 2014-40, 2014-48, 2014-93, 2015-125, 2017-28 and 2018-19.

B. The promulgation of the Colorado Marijuana Code and Colorado Marijuana Rules and other changes have made certain references in the Regulations obsolete.

C. The experience of the Marijuana Authority dictates that certain of the Regulations be amended to ensure the efficiency of the marijuana licensing program.

D. By enacting these amendments, the Board does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of federal law. As of the date of this resolution, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

E. The Board held a duly noticed public hearing on proposed amendments to the licensing regulations on November 30, 2023 at which time staff presented reasons the proposed regulations were necessary and warranted.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Boulder County Marijuana Licensing Regulations, as described in this resolution and in the form set forth in the attached Exhibit A, are amended as of January 1, 2024.

2. The amended fee schedule regarding the Regulations are adopted as reflected in the attached Exhibit B, effective January 1, 2024.

ADOPTED on this 30th day of November, 2023.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Claire Levy, Chair

Ashley Stolzmann, Vice Chair

Marta Loachamin, Commissioner

ATTEST:

Clerk to the Board: _____

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Article 1: Purpose and Intent

Section 14 of article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Marijuana Code, article 10 of title 44, C.R.S. (the “CMC”). In addition, the Colorado Department of Revenue adopted 1 CCR 212-3, the Colorado Marijuana Rules (the “CMR”). The CMC and CMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical and retail (i.e. non-medical) marijuana businesses within their jurisdictions.

The purpose of these Regulations is to authorize licensing in unincorporated Boulder County as provided in Section 16, article XVIII of the Colorado Constitution and §44-10-104, C.R.S., as amended; to establish specific standards and procedures for local licensing of Marijuana Businesses and Establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Boulder County by prescribing the manner in which Licensed Marijuana Businesses can be conducted in the county. By enacting these Regulations, Boulder County does not intend to encourage or promote the establishment of any business or operation, or the commission of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these Regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Article 2: Defined Terms

The definitions in the CMC, §44-10-103, C.R.S., as amended, and the CMR 1-115 shall apply to these Regulations except as follows:

- a) **“Authority”**: The Boulder County Marijuana Licensing Authority.
- b) **“Applicant”**: A Person that has submitted an application for licensure or registration, or for renewal of licensure or registration, pursuant to these Regulations that was accepted for review but has not been approved or denied.
- c) **“Building Official”**: The Chief Building Official in the Boulder County Community Planning & Permitting Department.
- d) **“Dual Operation”**: A facility that simultaneously operates a licensed Medical Marijuana Business and licensed Retail Marijuana Establishment.
- e) **“Electronic ID Scanner”**: A device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- f) **“Local Jurisdiction”**: The city, county, municipality, or city and county where the Licensed Marijuana Business is located.
- g) **“Off-Premises Storage Facility”**: A permitted facility that is an extension of the Licensee’s licensed premises, that allows a Licensed Marijuana Business to store Medical Marijuana, Medical Marijuana Products, Retail Marijuana, or Retail Marijuana Products that are part of its finished goods inventory.
- h) **“Off-Premises Storage Permit”**: An extension of a Licensed Marijuana Business’ licensed

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premises that is subject to all applicable medical or retail marijuana regulations.

- i) “State”: The Marijuana Enforcement Division (the “MED”) of the Colorado Department of Revenue.

Article 3: Local Licensing

- a) Local License Required. It is unlawful to operate any business in unincorporated Boulder County for which a license is required under the CMC or CMR without first having obtained a local license under these Regulations and a State license.
- b) Dual Licenses. Dual Operations are permitted so long as appropriate State and Boulder County licenses have been issued and remain valid and active for both operations.
- c) No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these Regulations, the CMC, Boulder County zoning approvals, or Boulder County building permits. To lawfully engage in the business of selling, cultivating, testing, storing, transporting, or manufacturing of marijuana in unincorporated Boulder County, all persons must obtain a license or permit under these Regulations. Such a license or permit is a revocable privilege subject to the will and scrutiny of local and State authorities.

Article 4: Relationship to Other Laws

Boulder County intends to follow and incorporate the requirements and procedures in the CMC and the CMR. Whenever possible, these Regulations and any licenses issued under these Regulations shall be construed to comply with federal law, specifically including the Controlled Substances Act.

Article 5: Authority

The Boulder County Board of County Commissioners (the “Board”) may designate, in its discretion, a person or persons to act as the Boulder County Marijuana Licensing Authority. The Authority shall serve at the pleasure of the Board and be compensated on terms mutually agreeable to the Board and the Authority. The Authority shall accept and determine applications and fees, investigate potential licensing violations, take action against licensees, and perform other duties as provided by these Regulations.

Article 6: Licenses

The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: Medical Marijuana Store license; Medical Marijuana Cultivation license; Medical Marijuana Products Manufacturer license; Medical Marijuana Testing Facility license; Medical Marijuana Transporter license; Marijuana Research and Development license; Retail

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Marijuana Store license; Retail Marijuana Cultivation Facility license; Retail Marijuana Products Manufacturer Facility license; Retail Marijuana Testing Facility license; and Retail Marijuana Transporter license; In addition, an Off-Premises Storage Permit may be issued. A Boulder County license shall only be required for Medical or Retail Marijuana Transporters if the Transporter will have a Licensed Premises or Off-Premises Storage Facility in the County. The license requirements in these Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, production, distribution, testing, storage, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the CMC.

Article 7: Licensing Procedure

- a) **General Procedure.** The Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority may defer to the State to enforce compliance with the requirements in the CMC and any other State regulations not covered by these Regulations. The Authority shall grant or deny a license or permit based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application or permit that is not in full compliance with these Regulations. The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these Regulations.
- b) **Application forms.**
 - 1. All applications for Licensed Marijuana Businesses shall be made upon the applicable Boulder County application form along with all appropriate documentation required by the Authority. The burden of proving an Applicant's qualifications for licensure rests, at all times, with the Applicant.
 - 2. An application for a Licensed marijuana business shall not be filed until the use has been approved pursuant to the Land Use Code.
 - 3. All applications must be complete before being accepted or considered by the Authority.
 - 4. All applications must include all attachments or supplemental information required by the form.
 - 5. All applications must be accompanied by a full remittance of the application and license fees.
 - 6. The Authority may refuse to accept an incomplete application.
 - 7. An Applicant's failure to provide any requested information by the Authority deadline may be grounds for denial of the application.

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- c) Other County Departments. Upon receipt of an application under 7(b) above, the Authority shall circulate the application to the Community Planning & Permitting Department's Building Inspectors, Zoning, and Access and Engineering teams, the Public Works Department, the Public Health Department, and the Treasurer's Office. These departments should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute approval of the license.

Article 8: Licensing Requirements

- a) Before issuing a local license for a new Licensed Marijuana Business, the Authority shall determine that all of the following requirements have been met in addition to any requirements in the CMC and CMR:
1. The appropriate application is complete, and all fees have been paid;
 2. The Director of Community Planning & Permitting or designee has determined:
 - a. The use is permitted and the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the parcel;
 - c. All existing or proposed signage meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting meets the Land Use Code's lighting requirements;
 - e. All structures on the proposed Licensed Premises have been inspected by the Building Official or designee, who has determined that all required permits and a Certificate of Occupancy or final inspection approvals have been obtained;
 - f. The proposed Licensed Premises complies with the Boulder County Building Code and Amendments; and
 - g. No Building Code violations exist in the structure containing the proposed Licensed Premises.
 3. The Public Health Director or designee has determined the proposed Licensed Premises has all required well and septic permits or is adequately served by public water and sewer;
 4. The Treasurer or designee has determined there are no overdue property taxes for the property or any property in the county owned by the business owner(s); and
 5. The County Engineer or designee has determined the proposed Licensed Premises has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the proposed site, and has suitably mitigated any traffic hazards associated with the use.

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- b) Before issuing a new Off-Premises Storage Permit, the Licensed Marijuana Business, along with meeting all of the requirements of Article 8(a), will need the following requirements met and approved by the Authority:
1. Prior to submitting an application for an Off-Premises Storage Permit, the Licensed Marijuana Business must obtain acknowledgement of good standing from the relevant Local Jurisdiction. A copy of this acknowledgment must be submitted with the application.
 2. No Medical Marijuana, Medical Marijuana Products, Retail Marijuana, or Retail Marijuana Products may be stored within a permitted storage facility until the Authority has approved the permit and has been provided a copy of the Off-Premises Storage Permit from the State.
 3. Any Off-Premises Storage Permit issued by the Authority shall be conditioned upon the Licensed Marijuana Business' receipt of all required Local Jurisdiction and State approvals or acknowledgments.
 4. A Licensed Marijuana Business may only store Medical Marijuana, Medical Marijuana Products, Retail Marijuana, or Retail Marijuana Products in their Licensed Premises or in their one permitted Off-Premises Storage Facility. Medical Marijuana Transporters and Retail Marijuana Transporters are allowed to have more than one permitted Off- Premises Storage Facility.
 5. Permitting. To obtain a permit for an Off-Premises Storage Facility, a Licensed Marijuana Business must apply on current Local Jurisdiction and State forms and pay any applicable fees.
 6. Extension of Licensed Premises. A permitted Off-Premises Storage Facility shall constitute an extension of the Licensed Marijuana Business' Licensed Premises, subject to all applicable Local Jurisdiction and State regulations.
 7. Limitation on Inventory to be Stored. A Medical Marijuana Store, Cultivation Operation, Medical Marijuana Products

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Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and a Retail Marijuana Products Manufacturer Facility may only have upon the permitted Off-Premises Storage Facility Medical Marijuana, Medical Marijuana Products, Retail Marijuana, or Retail Marijuana Products that are part of the particular Licensed Marijuana Business' finished goods inventory.

8. Restrictions. The permitted Off-Premises Storage Facility may be utilized for storage only. The Licensed Marijuana Business may not sell, cultivate, manufacture, process, test, or consume any Medical Marijuana, Medical Marijuana Products, Retail Marijuana, or Retail Marijuana Products within the premises of the permitted Off-Premises Storage Facility.

Article 8.5: Operation Requirements

- a) Hours of Operation. Medical Marijuana Stores and Retail Marijuana Stores must be closed to the public and no sale of marijuana may occur upon the premises between the hours of 10:00 pm and 8:00 am.
- b) Odor Control. Odors should not escape the property line. If any complaints are received, licensees will work with Public Health to rectify air quality concerns. Unresolved air quality complaints may be basis for action on the license pursuant to Article 13 of these Regulations.
- c) Visibility of Operations. All cultivation, production, storage, display, testing, and sales of marijuana and marijuana products must not be visible from the exterior of the business.
- d) Giveaways. Licensed Marijuana Businesses may not distribute marijuana or marijuana-products free of charge to a consumer.
- e) Advertising. All Licensed Marijuana Businesses are subject to the requirements of the Land Use Code and the restrictions on advertising and marketing under the CMC and CMR. In addition, no advertisement for marijuana or marijuana products is permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.
- f) Sponsorship. A Licensed Marijuana Business may sponsor a charitable, sports, or similar event, but a Licensed Marijuana Business must not engage in advertising at, or in connection with, such an event unless the Licensed Marijuana Business has reliable evidence that no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.

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g) Additional requirements for Medical Marijuana Stores and Retail Marijuana Stores:

1. Receipts for Retail Marijuana Stores. Receipts must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."
2. Proof of age. Proof of age of every person entering the Medical Marijuana Store or Retail Marijuana Store must be verified. Verification can be done either by the Licensee using an Electronic ID Scanner or physically inspecting an acceptable form of identification listed in the CMC and CMR.

h) Sustainability. All marijuana cultivation operations must meet the following requirements, unless the Authority, in consultation with the Building Official, grants an extension of time for good cause shown.

A sustainability report must be submitted to the Licensing Authority that documents all electrical energy consumed including any fuel associated with generators or CO2 generation since the previous license expiration or the start date of the operation. This report must be made on the form provided by the Licensing Authority and must contain all required supplemental information. The sustainability report is due on a yearly basis at time of license renewal.

1. The sustainability report must be created and signed by an independent third-party commissioning agent who is approved by the Building Official, unless the facility is participating in the Boulder County Energy Impact Offset Fund (the "BCEIOF"), as provided in subparagraph (5). All fuels must be converted to kilowatt hours ("kWh") using the rate of 3412 Btu = 1 kWh. Documentation of source of consumption data is required. If a cultivation facility is participating in the BCEIOF, then energy usage does not have to be separately reported in the sustainability report.
2. A cultivation operation must directly offset 100% of electricity use through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official. A cultivation operation must directly offset 100% of any natural gas, liquid fuel, bio-fuel, or propane consumption, if used to power an onsite electrical power generator, CO2 generator, or unvented room heater, through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent

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approved by the Building Official. The offset must be demonstrated in the sustainability report approved by the Building Official.

3. All lamps must be disposed of at a hazardous waste or comparable facility and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented.
 4. In lieu of the offset requirements contained in subsections (2) & (3) of this article, a facility may choose to participate in the BCEIOF. The owner(s) of such facilities must sign a BCEIOF agreement in which they agree to abide by all terms, requirements, and conditions of the BCEIOF program. Failure to pay the full amount of a BCEIOF invoice within 60 days of the date of the invoice will result in a late fee pursuant to Article 14(d). Two or more invoices paid after 60 days of the date of the invoice within one calendar year will be considered a license infraction pursuant to Article 13.
- i) *Reporting of Crime on a Licensed Premise or Otherwise Related to a Licensed Marijuana Business.* A Licensed Marijuana Business shall report to the Authority any discovered plan or other act or omission of any person: (1) to commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the Licensed Marijuana Business; or (2) that results in injury to any person on the Licensed Premises or otherwise creates a risk to public health or safety. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (j) alters or eliminates any obligation a Licensed Marijuana Business or Licensee may have to report criminal activity to a local or state law enforcement agency.

Article 9: Inspection

By signing and submitting a license application, the owner of the Licensed Marijuana Business certifies that the applicant has received permission from the property owner to allow inspections as may be required under State or local licensing law. In addition, the owners authorize the Authority or designee and the Building Official or designee, to enter upon and inspect the premises. Upon request, the owner of the Licensed Marijuana Business shall timely provide the Authority with records related to the business. This section shall not limit any inspection authorized under any other provision of law or regulation.

Article 10: Decision and Appeal

- a) The Authority, in its sole discretion, may delay issuing a decision on a license application while the applicant is working toward bringing a noncompliant property into compliance. Applicants receiving the benefit of such a delay must proceed to correct the noncompliance diligently and in good faith or be subject to denial.
- b) Once the Authority has completed a review of the application, it shall either issue a local license or a denial letter that specifies the reasons for denial. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial letter, or issue a

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local license. A denial letter, revised denial letter, or local license denial is subject to judicial review as specified in 44-10-304(1), C.R.S., but issues that were or could have been decided by the Board of Adjustment may not be raised in such a proceeding.

- c) A determination by the Director of Community Planning & Permitting or designee, under Article 8(a)(2) above, that the use is not permitted or that the owner or operator has not obtained the required approvals under the Land Use Code, shall constitute a final decision of the Director appealable to the County Board of Adjustment under the applicable provisions of Article 4 of the Land Use Code. When the Authority receives such a determination, the Authority shall not issue a decision on the licensing application for thirty days. If the applicant files an appeal to the Board of Adjustment, the Authority shall not issue a decision on the licensing application until such appeal is finally resolved, unless a separate reason for denial exists.
- d) The Authority will not issue a conditional license approval and shall determine that all of the requirements outlined in Article 8 have been met and the Applicant has been issued a valid license as required by the CMC before issuing a local license for a new Licensed Marijuana Business.

Article 11: Changes in License

All County forms, copies of corresponding State forms, and fees must be submitted to the Authority to modify a business premise, location, or ownership and shall be made at least thirty days prior to the anticipated change. If forms are received less than thirty days prior to the change or after the change has occurred a late fee may be charged. All information provided on State and Boulder County forms must be consistent. The application must include the application fee, be complete in every material detail, and be filled out truthfully.

- a) Modifications During Licensing Process. No modifications may be made to the business or establishment until the license is issued by the Authority.
- b) Transfer/Change of Ownership. A license or Off-Premises Storage Permit shall be transferable only upon approval from the State and acknowledgement by the Authority. Any change in ownership shall require acknowledgement by the Authority and be submitted on a Boulder County Change of Ownership Application.
 - 1. The Applicant(s) or transferee(s) for any license transfer or change of ownership shall not operate the Licensed Marijuana Business until the transfer of ownership request is approved in writing by the State and the Authority.
 - 2. The current Owner(s) or proposed transferee(s) of the license at date of issue retain full responsibility for the Licensed Marijuana Business identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the State and acknowledged by the Authority. A violation of this requirement shall constitute grounds to deny the transfer of ownership request and may result in disciplinary action against the license(s) of the current Owner(s) and/or the Licensed Marijuana Business.
 - 3. If the Licensed Marijuana Business or any Licensees affiliated or associated with the business are applying to transfer ownership and are involved in an

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administrative investigation or administrative disciplinary action, the following may apply:

- a. The transfer of ownership may be delayed or denied until administrative action is resolved; or
- b. If the transfer of ownership is approved in writing by both the State and the Authority, the transferee(s) may be responsible for the actions of the Licensed Marijuana Business and its prior owners, and subject to discipline based upon the same.
- c) *Change of Location*. A change to the location of a Licensed Marijuana Business shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form, including the procurement of all permits and approvals from all referral departments listed in 7(c) above. The license shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate at the former location. At no time may a Licensee operate or exercise any of the privileges granted pursuant to the license at both locations. For good cause shown, the 120 day deadline may be extended for an additional 120 days. To be approved for a change of location the new location must comply with Articles 8 and 8.5 of these Regulations.
- d) *Modification of Premises*. A modification of any building structure where a Licensed Marijuana Business is located is subject to all applicable provisions of the Land Use Code and County building code. Any modification of premises shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.
- e) *Change of Mailing Address*. Notification is required and must be done on the Boulder County Marijuana Licensing Report of Changes form.
- f) *Change in Trade Name*. Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.

Article 12: Term of License or Permit; Renewal

- a) *Term of License or Permit*. Boulder County Marijuana Business licenses and Off-Premises Storage Permits shall be valid for a period of one year or upon the expiration and non-renewal of the associated license or permit, whichever occurs first.
- b) *Renewal of License or Permit*. Before renewing a local license for a Licensed Marijuana Business, the Authority shall determine that all of the following requirements have been met in addition to any requirements in the CMC, and CMR:
 1. A renewal application, renewal fee, operating fee, and any required accessory license operating fees must be submitted at least forty-five days before the expiration of the license or permit, or a late fee may apply. Failure to submit a

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- renewal application prior to the expiration date of a license or permit may result in the revocation of a license or permit on the expiration date.
2. No violations of these regulations exist. Renewal of any local license or permit is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place.
 3. The Director of Community Planning & Permitting or designee has determined:
 - a. The use is permitted and the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the Licensed Premises;
 - c. All existing or proposed signage under the control of the licensee meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting under the control of the licensee meets the Land Use Code's lighting requirements;
 - e. The Licensed Premises have been inspected by the Building Official or designee, who has determined that all required permits and a Certificate of Occupancy or final inspection approvals have been obtained;
 - f. The Licensed Premises complies with the Boulder County Building Code and Amendments; and
 - g. No Building Code violations exist on the Licensed Premises.
 4. The Public Health Director or designee has determined:
 - a. The Licensed Premises has all required well and septic permits or is adequately served by public water and sewer; and
 - b. All reports of offensive odors have been rectified as confirmed by Public Health.
 5. The County Engineer or designee has determined the Licensed Premises has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the site, and has suitably mitigated any traffic hazards associated with the use.
 6. If the Assessor or designee has determined that the Licensee has not filed a personal property schedule as required by §39-5-108, C.R.S. for the most recent applicable year, the license shall not be renewed unless a schedule is filed prior to the expiration date of the license or permit.
 7. If the Treasurer or designee has determined that there are overdue property taxes for either the real property where the Licensed Premises is located or for the personal property owned by the Licensed Marijuana Business, the license shall not be renewed, with the exception that if the business owner is current pursuant to a payment plan with the Treasurer for personal property taxes, the license may be renewed.
 8. If the Licensee is participating in the BCEIOF, the Licensee has submitted all required sustainability reports and there are no overdue BCEIOF invoices related to the Licensee's participation in the BCEIOF, with the exception that if the Licensee is current pursuant to a payment plan for BCEIOF invoices, the license may be renewed.

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- c) If the Licensee timely applies for the renewal of an existing license, the Authority may administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- d) If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Authority accepts the application, then the Authority may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- e) License Not Renewed or Administratively Continued.
 - 1. In the event the license is not renewed prior to expiration, a Licensed Marijuana Business may not operate unless it has been administratively continued.
 - 2. If a Licensee files a renewal application after the date of expiration, the application will be treated as a new license application.
 - 3. Renewal applications that are denied by the Authority may be appealed pursuant to §44-10-314, C.R.S.
- f) Licenses Subject to Ongoing Discipline and/or Suspension. Licenses that are the subject of a suspension, disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not timely renewed will expire.

Article 13: Violations

- a) Order to Show Cause. If the Authority has reasonable cause to believe that a Licensee has violated the CMC, CMR or these Regulations, it shall issue an Order to Show Cause, specifically identifying the alleged violation(s), advising that action may be taken against the license, and giving the Licensee ten days to provide a response in writing and request a public hearing.
- b) If a public hearing has been requested within ten days of the issuance of the Order to Show Cause, the Authority shall set a hearing within 14 days, to be held within 30 days of the Order. The Licensee shall be given an opportunity to testify and call witnesses. The Authority may administer oaths and issue subpoenas for the testimony of persons or for documents to be produced.
- c) Decision. Based on the Licensee's response and any other evidence that has been presented, the Authority shall determine if a violation has occurred, and if so, the appropriate penalty. The Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
- d) Penalties. The Authority will make a determination regarding the type of penalty to impose based on the severity of the violation in the following categories:
 - 1. License Infractions. This category of violation is the least severe and may include, but is not limited to, air quality complaints, unauthorized modifications of the premises of a minor nature, failure to notify the Authority of a change in ownership, or two or more late paid BCEIOF invoices in a calendar year. The range of penalties for this category of violation include a verbal or written warning, license suspension, a fine per individual violation, or a fine in lieu of suspension of up to

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\$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include license restrictions.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, unrectified odor issues, advertising and/or marketing violations, unauthorized modifications of the premises, or failure to notify the Authority of a change in ownership. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
 3. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, medical marijuana sales to non-patients, consuming marijuana on the Licensed Premises, marijuana sales in excess of the relevant transition limit, violations related to Dual Operations, or packaging or labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation. Sanctions may also include restrictions on the license.
- e) Fines. Fines of up to \$3,000 for each offense may be imposed for a Licensee's violations. If a Licensee has had multiple violations within a three-year period, fines of up to \$5,000 for each offense may be imposed. If a license has been suspended pursuant to this Article for fourteen days or less, the Licensee may petition the Authority for a fine in lieu of suspension, and the Authority in its sole discretion may grant this request. Any fine must be paid within thirty days of a final decision by the Authority or the license will be suspended, unless the Authority grants a longer period.
- f) Appeal Process. Within ten days of any decision by the Authority, the Licensee may provide a written response by submitting a letter to the Authority clearly stating its position. In response, the Authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A Licensee may continue to operate during the pendency of an appeal. The Authority may grant extensions of deadlines under this Article for good cause shown.
- g) Upon Denial or Revocation of a State License. Any license issued under these Regulations shall be null and void if a court of competent jurisdiction determines that the issuance of local licenses violates federal law. Upon denial or revocation of a State license, all related local licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

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Article 14: Fee Structure.

- a) *New Marijuana Business License and Off-Premises Storage Permit.* Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location. The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable.
- b) The Authority will maintain a fee schedule for applications, operating fees, conversions, renewals, and administrative fees. The BOCC will approve all changes to this schedule, which is binding on Licensees.

Article 15: Severability

If any provision of these Regulations is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision shall be repealed or amended. All other provisions shall remain in full force and effect.

Marijuana Licensing Fee Schedule

- a) *New Marijuana Business License and Off-Premises Storage Permit.* Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Application Fee	\$2,500
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$ 500

- b) *Renewal Application.* A Renewal Fee will be required for every license renewal. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Renewal Fee	\$800
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$500

- c) *Administrative fees.*

Transfer of Ownership	\$100
Change in Ownership Structure	\$50
Change of Location	\$2,500
Change in Mailing Address	\$50
Change in Trade Name	\$50
Modification of Premises - Building permit needed	\$500
Modification of Premises – No building permit needed	\$50
Non-permitted modification of premise - major	\$1,000
Late Fee	\$500