



## **COSTILLA COUNTY MEDICAL AND RETAIL MARIJUANA BUSINESS LICENSING REGULATIONS**

### **Article 1: Applicability and Purpose.**

Regulated medical and retail marijuana use is allowed in Colorado under the provisions of Sections 14 and 16 of Article XVIII of the Colorado Constitution; the Colorado Medical Marijuana Code, Article 43.3 of title 12, C.R.S.; the Colorado Retail Marijuana Code, Article 43.4 of title 12, C.R.S.; and rules promulgated pursuant to these authorities, 1 CCR 212-1 and 1 CCR 212-2 (“State Regulations”). These laws authorize counties and municipalities to permit and regulate certain medical and retail marijuana establishments (“marijuana business”) within their jurisdictions. The purpose of these regulations is to further prescribe the manner in which marijuana businesses can be conducted in unincorporated Costilla County and to authorize licensing in Costilla County as provided in §12-43.3-301 and §12-43.4-301, C.R.S., as amended. These regulations shall have no applicability within any local municipality.

### **Article 2: Applicability.**

All licenses must comply with the regulations set forth herein; all other applicable State laws, rules and regulations as amended; and all County Land Use Code requirements, and other rules and regulations as amended. A person or entity must obtain a license in accordance with these regulations (“Local Regulations”) and the applicable State Regulations prior to operating a marijuana business in Costilla County. All terms in these Local Regulations shall have the same meaning and definition as in the Costilla County Land Use Code, the State Regulations, and all rules duly adopted by the State Licensing Authority or Marijuana Enforcement Division unless specifically stated otherwise.

### **Article 3: Effective date and applicability.**

(a) *Effective date.* These regulations shall become effective upon adoption by the Board of County Commissioners for Costilla County. It shall be unlawful to operate any marijuana business in unincorporated Costilla County without first having obtained a local license under these Local Regulations and a State license under the State Regulations. These regulations shall replace and supersede prior resolutions and regulations dealing with medical marijuana businesses licensing in Costilla County. Existing medical marijuana business licenses will remain effective for the remainder of their term unless otherwise revoked or suspended as provided for herein.

(b) *Applications for local licenses.* On and after July 1, 2014, Costilla County shall begin receiving and processing applications for licensing under these Local Regulations.

**Article 4: Local Licensing Authority.**

The Costilla County Board of County Commissioners (the “Board”) shall be the Local Licensing Authority (“Authority”) and may appoint an individual to serve in this capacity in its sole discretion. The Board hereby appoints the Costilla County Clerk & Recorder or his/her designee to act in such capacity as the Board deems necessary and appropriate to process license applications.

**Article 5: Licenses.**

(a) *License Types.* The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements:

1. medical marijuana center license
2. optional premises cultivation license
3. retail marijuana store license
4. retail marijuana cultivation facility license

The licensing requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other law or regulations applicable to the operation of marijuana business. A separate license shall be required from the State as provided by the State Regulations.

(b) *State License Requirement.* Should the Authority approve an application of a local license, no such license shall be issued or effective until and unless the State Licensing Authority has approved the issuance of a State License for the proposed licensed premises.

(c) *Inspection.* No such license shall be issued or effective until the building in which the licensed business operations are to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with applicable provisions of any State Regulations and Local Regulations, and only after the Authority, or its designated representative, has inspected the proposed licensed premises to determine that the applicant(s) has complied with the drawings and requirements provided herein.

**Article 6: Licensing Procedure.**

(a) *General Procedure.* The Authority shall consider and act upon all complete local license applications as authorized by these regulations unless otherwise stated herein. The Authority shall defer to the State to enforce compliance with the requirements in the State Regulations. The Authority shall grant, conditionally grant or deny a license based solely upon the Authority’s investigation and findings, and no public hearing shall be required. The

Authority may deny any application or revoke any license that is not in full compliance with these regulations.

(b) *Application Forms.* All applications for local licensing shall be made upon forms provided by the Authority or the State and shall include any supplemental materials as required by the State, these Regulations, the Authority, or the County Land Use Code.

(c) *Concurrent Application.* As may be provided for under the State Regulations, upon receipt of a local licensing application under these regulations, the Authority may request that the State Licensing Authority conduct a concurrent review of a new license application and that the State advises the Authority of any items it finds that could result in the denial of the license. The applicant shall be responsible for submitting any required fees and materials directly to the State Licensing Authority under the State Regulations when a request is made. If the Authority receives such a notice from the State, the Authority shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the noted discrepancies have been corrected.

#### **Article 7: Licensing Requirements.**

Before issuing a local license for a marijuana business, the Authority shall require that the applicant provide the requisite information necessary to determine that all of the following requirements have been met by the applicant:

(a) The applicant has provided evidence that the appropriate application, renewal, or Operating fees have been paid;

(b) The applicant has obtained a confirmation or authorization from the Costilla County Land Use Office that states the use is permitted in the zone district proposed and the owner has obtained all required approvals under the Costilla County Land Use Code as determined by the Land Use Administrator. To obtain such letter or authorization, the applicant shall provide a detailed legal description of the precise location and a map showing the following uses in the immediate vicinity: 1) any residences that are commercial/residential development or within an Business/Commercial zone district, 2) any drug or alcohol rehabilitation facilities, 3) any public community centers or publically owned or maintained buildings open for use to the general public, 4) any public school or private school, and public park or playground, 5) any licensed child care facility, and 6) any other sensitive use that may be identified in the Costilla County Land Use Code, as may be amended from time to time. The map must show the distance of these uses from the proposed location, measured in accordance with the Costilla County Land Use Code, and must demonstrate that the proposed location meets the required separation distance;

(c) The applicant has obtained a confirmation from the Costilla County Land Use Administrator that states the proposed structure and use comply with the Land Use Code provisions and all necessary occupancy permits have been obtained. To obtain such letter, the applicant shall provide a detailed floor plan layout drawn to scale which clearly reflects the uses,

functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems, grow light configurations, wall construction and separation from other occupants, and any other information necessary as determined by the Land Use Administrator;

(d) The applicant has submitted evidence that no zoning violations exist on the property or any property in the County owned by the applicant;

(e) The applicant has obtained and submitted a confirmation from the Costilla County Treasurer showing that all property taxes have been paid and no tax liens exist on the property;

(f) For renewals, the applicant has obtained and submitted proof from the Department of Revenue that all applicable excise and sales taxes have been paid during the prior licensed term;

(g) The applicant has obtained and submitted proof of possession of the proposed licensed premises for the duration of the license;

(h) The applicant has submitted letters to the appropriate fire and law enforcement personnel describing the location and nature of the proposed business;

(i) The applicant has obtained and submitted confirmation that it or an entity associated with the applicant has not violated any State Regulations or Local Regulations during any previous licensed terms or a detailed description on how the applicant has satisfactorily corrected and mitigated any such past violation;

(j) The applicant has obtained and submitted a copy of a State license or conditional license. For renewals or licenses requiring local approval prior to State approval, the applicant has submitted proof that all State Regulations pertaining to license submittal have been satisfied which may include a complete copy of the State application;

(k) The applicant has submitted evidence that the nature and location of any existing or proposed exterior lighting and signage complies with all applicable sign codes of Costilla County and any additional conditions that may be placed on exterior lighting and signage in the discretion of the Authority;

(l) The applicant has submitted a listing of all other uses on the property and the uses of properties immediately surrounding the proposed licensed premises;

(m) The applicant has provided the expected source and level of water use for the premises and evidence of permits or other applicable documentation showing the availability or ownership of water rights sufficient to meet such use;

(n) The applicant has provided a copy of the applicable state sales tax license for the business;

(o) The applicant has obtained and submitted any additional materials that, in the discretion of the Authority, is necessary to make a determination under these regulations;

(p) The Authority may waive, at its discretion, specific submission requirements. The Authority may refuse to accept an incomplete application. The Authority will refuse to accept an application if the approval of the license would exceed the cap on licenses holders as set forth in Article 14 below.

#### **Article 8: Fees.**

The operating fees for each local license shall be \$8,000.00. Additionally all cultivation operations with a capacity in excess of 1,000 square feet shall be assessed \$1 per square foot in excess of 1,000 square feet. The operating fees for renewals shall be \$5,000.00. This operating fee must be paid to the Costilla County Clerk & Recorder upon application for a new license and annually upon renewal application. This fee is non-refundable once a license is issued and will not be prorated if the licensed holder ceases operations at the licensed premises for any reason during the term of the license. Such operating fee is to cover the County's costs, including but not limited to inspection, administration, and enforcement of marijuana businesses. Such fee may be adjusted by the Authority at any time and will become effective upon existing marijuana businesses during the succeeding license period.

#### **Article 9: Changes in License.**

(a) *Transfer of Ownership.* Any license issued under these regulations is not transferable or assignable. Any change of ownership shall require a new license.

(b) *Change of Location.* Any license granted under these regulations is limited to the location(s) specified on the license application. Operation of a marijuana business at a new location requires a new license. Operating Fees paid for a prior location may not be applied to the new location. When making a change of location application, any existing license holder in good standing shall be given a preference for a new license pursuant to Article 14 hereunder. Notwithstanding such numerical limit preference, the approval of such license shall be subject to the approval criteria set forth in Article 12 hereunder.

(c) *Modification of premises.* Modification of any building structure where a marijuana business is located is subject to all applicable provisions of the Costilla County Land Use Code.

#### **Article 10: Term of license; renewal.**

Any local license issued under these regulations shall be valid for a period of one (1) year from the date of issuance. Applications for renewals shall be processed in the same manner as new licenses under these regulations. A licensee shall submit a renewal application at least forty-five (45) days before the expiration of the license. 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 any State or federal law, all 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.

Notwithstanding the provisions of this Article 10, a licensee whose license has been expired not more than ninety (90) days may file a late renewal application upon the payment of an additional and nonrefundable late fee of five hundred dollars to the Authority. Such fee shall be considered additional operating fees for the processing of the late application. A licensee who files a late renewal application and pays the requisite fees may continue to operate until the Authority takes final action to approve or deny the licensee's late renewal application. However, late renewal applications without good cause shown may be grounds for denial of the license application.

#### **Article 11: Violations.**

The Authority, in its reasonable discretion, may suspend or revoke a license for any of the reasons set forth in Article 12 below. If the Authority determines that a violation has occurred, it shall document the violation and notify the violator in writing of any suspension or revocation as a result. Notifications and decisions of the Authority may be delivered by mailing to the address submitted to the Authority on the most recent application, posting on the premises, or by personal service. Notification and decisions shall be deemed received three (3) business days after placement in the United States Mail, one (1) business day after posting on the licenses premises, and on the day of personal service.

The Authority also has the ability to issue a notice to correct any continuing violation in lieu of a suspension or revocation. License holders will comply with notices to correct issued by the Authority within ten (10) days of notification. Failure to timely correct such violations will also be grounds for immediate suspension or revocation.

The Authority, in its sole discretion, may also accept a fine-in-lieu of suspension in an amount between Five Thousand Dollars (\$5,000.00) and Eight Thousand Dollars (\$8,000.00) dollars depending upon the nature and severity of the violation.

#### **Article 12: Denial of a license or renewal.**

The Authority may deny a license or renewal for any reasons articulated in the State Regulations and these Local Regulations, including but not limited to:

1. Submission of an incomplete application;
2. Submission of a late renewal without good cause for such delay;
3. Violation or failure to comply with any terms, conditions, or provisions of State Regulations, any rules promulgated pursuant to the Code, or any supplemental local law, rules or regulations;

4. Failure to comply with any special terms of conditions that were placed in the license by the State or this Authority. Pursuant to 12-43.4-309, the Authority is authorized to impose any conditions that in its reasonable discretion are necessary to address odors, neighborhood compatibility, and safety issues of any proposed license;
5. Operation of the premises in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the establishment is located;
6. Failure to obtain or remain in good standing with an additional current or past medical marijuana license or retail marijuana license by the applicant or an entity associated with or related to the applicant; and
7. Exceeding the cap on licenses holders as set forth in Article 14 below.
8. It shall be unlawful for any person to hold a medical marijuana center or retail marijuana store license in Costilla County unless the person also holds a respective medical marijuana optional premises cultivation license or retail marijuana cultivation facility license in Costilla County.

### **Article 13: Decision and Appeal.**

Any decision of the Authority regarding an application, renewal, suspension or revocation shall be in writing specifying the reasons for the decision. Decisions may be delivered and will be deemed received as set forth in Article 11 above. Within Ten (10) days of a decision, the applicant or license holder 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 or issue a revised decision.

The decision of the Costilla County Land Use Administrator pursuant to such authority as is granted to him/her pursuant to the Costilla County Land Use Code or any authority delegated to him/her under these Regulations shall constitute a final administrative officer or agency decision appealable to the Costilla County Board of County Commissioners pursuant to the applicable provisions of Article 6, of the Costilla County Land Use Code. No additional hearing or appeal rights, including but not limited to such hearings allowed under C.R.S 12-43.4-302, shall be provided to applicants under these Local Regulations. At all times, the license holder or applicant bears the burden of proving it has not committed a violation or is qualified to hold a license by a preponderance of the evidence standard. If an appeal is filed, the Authority's decision shall be stayed until such appeal is finally resolved by the Board of County Commissioners.

### **Article 14: Retail Marijuana Store License Caps.**

Pursuant to State Regulations, particularly §12-43.4-301, C.R.S. as amended, the Authority is limiting the number of retail marijuana store licenses that may be issued and active at one time in unincorporated Costilla County. The numerical limit of such licenses shall be Five (5) Retail or Medical Marijuana Dispensaries and Ten (10) Retail Marijuana Cultivation Facilities or Medical Marijuana Optional Premises Cultivation facilities.

The Authority, in its sole discretion, may also reserve from available licenses a number equal to Ten (10) licenses to be awarded as it deems appropriate.

Available licenses will be issued on a first-come, first-serve basis. The time of filing a complete application will be considered but will not be dispositive of those granted a license. If more than one application is pending with the Authority, the approval factors contained in Article 7 above and elsewhere in these Local Regulations will be considered in addition to the time of filing a completed application. Additionally, the Authority may consider the availability of other retail marijuana store license holders in the same area as well as the compatibility of the propose retail marijuana store with the other uses in the same area. The Authority may use its reasonable discretion in awarding limited licenses when a greater number of applicants seek licenses above the limits set forth herein.

The Authority will not maintain a waiting list of those filing for licenses when these limits have been met. Such applications will be rejected. It will be up to such rejected applicants to resubmit when and if further licenses become available. The Authority will have no obligation to inform past applicants of future available licenses.

#### **Article 15: Collocating of Medical and Retail Marijuana Businesses.**

Dual operation from the same premise of a licensed medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility with any retail marijuana facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to a person younger than twenty-one years of age.

#### **Article 16: Inspection.**

By submitting a license application, the applicant authorized the Authority or its designee to enter upon and inspect the premises at reasonable times. Upon request, the applicant or license holder shall timely provide the Authority with records related to the business. This section shall not limit any inspection authority authorized under any other provision of law or regulation.

#### **Article 17: Hours of Operation.**

Medical marijuana centers and retail marijuana stores must be closed to the public and no sale or other distribution of marijuana may occur upon the premises between the hours of 7:00 pm and 8:00 am.

#### **Article 18: Business Conducted Within Building.**

All cultivation, production, distribution, storage, display and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.

**Article 19: Entitlements.**

No person shall have any entitlement or vested right to licensing under these Local Regulations or any local zoning approval. Local licenses hereunder are a revocable privilege subject to the oversight of local and state authorities. These Local Regulations, the State Regulations, the Costilla County Land Use Code, and applicable zoning may be changed or amended from time to time. Such changes may preclude the continuance or further issuance of a local license at any given location. As of the date of the enactment of these Local 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. Any license given hereunder does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.

**Article 20: 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.