

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, ADOPTING STANDARDS FOR THE ISSUANCE OF RETAIL MARIJUANA STORE LICENSES, RETAIL MARIJUANA CULTIVATION FACILITY LICENSES, RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSES AND RETAIL MARIJUANA TESTING FACILITY LICENSES LOCATED WITHIN UNINCORPORATED SAN MIGUEL COUNTY, COLORADO, INCLUDING THE DESIGNATION OF A LOCAL LICENSING AUTHORITY

Resolution No. 2013 - 15

WHEREAS, the Colorado Retail Marijuana Code, Title 12, Article 43.4, Part 1, C.R.S., House Bill 13-1317, as amended by H. B. 11-1043, effective May 28, 2013, ("Code"), provides in pertinent part as follows:

12-43.4-301. Local approval - licensing.

(1) When the state licensing authority receives an application for original licensing or renewal of an existing license for any marijuana establishment, the state licensing authority shall within seven days provide a copy of the application to the local jurisdiction in which the establishment is to be located unless the local jurisdiction has prohibited the operation of retail marijuana establishments pursuant to section 16(5)(f) of article XVIII of the state constitution. The local jurisdiction shall determine whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses. The local jurisdiction shall inform the state licensing authority whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses.

(2) A local jurisdiction may impose a separate local licensing requirement as a part of its restrictions on time, place, manner, and the number of marijuana businesses. A local jurisdiction may decline to impose any local licensing requirements, but a local jurisdiction shall notify the state licensing authority that it either approves or denies each application forwarded to it.

12-43.4-309. Licensing in general.

(1) Local jurisdictions are authorized to adopt and enforce regulations for retail marijuana establishments that are at least as restrictive as the provisions of this article and any rule promulgated pursuant to this article.

(2) A retail marijuana establishment may not operate until it is licensed by the state licensing authority pursuant to this article and approved by the local jurisdiction. If an application is denied by the local licensing authority, the state licensing authority shall revoke the state-issued license. In connection with a license, the applicant shall provide a complete and accurate application as required by the state licensing authority.

...

(10) A licensee shall report each transfer or change of financial interest in the license to the state and local licensing authorities and receive approval prior to any transfer or change pursuant to

section 12-43.4-308. A report is required for transfers of capital stock of any corporation regardless of size.

(11) Each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities within seven days after the change pursuant to section 12-43.4-308.

(12)(a) A licensee may move the permanent location to any other place in Colorado once permission to do so is granted by the state and local jurisdiction provided for in this article. Upon receipt of an application for change of location, the state licensing authority shall, within seven days, submit a copy of the application to the local jurisdiction to determine whether the transfer complies with all local restrictions on change of location.

(b) In permitting a change of location, the local jurisdiction shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board of the municipality, city and county, or county, and any such change in location shall be in accordance with all requirements of this article and rules promulgated pursuant to this article.

WHEREAS, section 12-43.4-103(7), C.R.S., defines a "Local Licensing Authority" to mean "for any local jurisdiction that has chosen to adopt a local licensing requirement in addition to the state licensing requirements of this article, an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

WHEREAS, the U.S. Department of Justice issued a memorandum for all United States attorneys on August 29, 2013, titled "Guidance Regarding Marijuana Enforcement" (attached hereto as Exhibit A). The Guidance identifies eight priorities for marijuana enforcement matters that will also be a priority for San Miguel County:

- Preventing the distribution of marijuana to minors.
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels.
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states.
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands.
- Preventing marijuana possession or use on federal property.

WHEREAS, the state of Colorado has set a timeline for various activities relating to Retail Marijuana Establishments as follows, which the County will also adhere to:

- October 1, 2013: Owners of a current licensed medical marijuana business in San Miguel County may apply for a State and Local Retail Marijuana Establishment License.
- January 1, 2014: The state may issue Retail Marijuana Establishment licenses to current medical marijuana license holders who have applied; and New entrants into the Retail Marijuana business may submit a "notice of intent" to apply for a Retail Marijuana Establishment license.
- July 1, 2014: New entrants into the Retail Marijuana business may apply to the state for a license for a Retail Marijuana Establishment.
- October 1, 2014: The state may issue a license for a Retail Marijuana Establishment to new entrants into the Retail Marijuana business.

WHEREAS, the Board of County Commissioners of San Miguel County, Colorado, having considered this matter at duly noticed public meetings of the BOCC held in Telluride, CO on September 4, 2013, and on September 18, 2013, does hereby find and determine that in addition to all other standards applicable to the issuance of retail marijuana licenses pursuant to the Code that the public's health, safety, and welfare, requires that the BOCC, acting in its statutory capacity as the Local Licensing Authority for unincorporated San Miguel County, adopt additional standards for the issuance of Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing, and Retail Marijuana Testing Facility Licenses, consistent with the intent and applicable requirements of the Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of San Miguel County, Colorado, as follows:

1. The additional standards for the issuance of Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing, and Retail Marijuana Testing Facility Licenses, for those Licensed Premises located within the unincorporated area of San Miguel County, Colorado, as set forth in Exhibit "B," a copy of which is attached hereto and incorporated herein by reference, are hereby adopted effective September 18, 2013.
2. The additional standards set forth in Exhibit "B" shall apply to all license related applications that San Miguel County receives on or after September 18, 2013, pertaining to Licensed Premises that are proposed to be located within the unincorporated area of San Miguel County, Colorado.
3. The licensing standards set forth in Exhibit "B" are in addition to the relevant licensing standards set forth in the Code.

- 4. The BOCC, acting in its statutory capacity as the Local Licensing Authority for the unincorporated area of San Miguel County, Colorado, pursuant to the Code, shall not approve a local license for any such premises unless it finds and determines that such premises are in full compliance with all applicable Code requirements, regulations, and the additional local licensing standards set forth in Exhibit "B."

DONE and APPROVED by the San Miguel County, Colorado, Board of County Commissioners at a duly noticed public meeting held on September 18, 2013, in Telluride, Colorado.

BOARD OF COUNTY COMMISSIONERS
SAN MIGUEL COUNTY, COLORADO

Joan May

Joan May, Chair

ATTEST:

John Huebner

Chief Deputy Clerk to the Board



VOTE:

Elaine R.C. Fischer	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Joan May	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Art Goodtimes	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent

Attachment: Exhibit "A" – U.S. Department of Justice Guidance Regarding Marijuana Enforcement
Exhibit "B" – Retail Cannabis Local Licensing Standards

EXHIBIT A

to

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, ADOPTING STANDARDS FOR THE ISSUANCE OF RETAIL MARIJUANA STORE LICENSES, RETAIL MARIJUANA CULTIVATION FACILITY LICENSES, RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSES AND RETAIL MARIJUANA TESTING FACILITY LICENSES LOCATED WITHIN UNINCORPORATED SAN MIGUEL COUNTY, COLORADO, INCLUDING THE DESIGNATION OF A LOCAL LICENSING AUTHORITY

**U.S. Department of Justice Memorandum
"Guidance Regarding Marijuana Enforcement"**

(dated August 29, 2013)



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 2

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 3

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 4

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

EXHIBIT B

to

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, ADOPTING STANDARDS FOR THE ISSUANCE OF RETAIL MARIJUANA STORE LICENSES, RETAIL MARIJUANA CULTIVATION FACILITY LICENSES, RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSES AND RETAIL MARIJUANA TESTING FACILITY LICENSES LOCATED WITHIN UNINCORPORATED SAN MIGUEL COUNTY, COLORADO, INCLUDING THE DESIGNATION OF A LOCAL LICENSING AUTHORITY

**San Miguel County, Colorado
Retail Cannabis Local Licensing Standards**

(September 18, 2013)

**SAN MIGUEL COUNTY, COLORADO
RETAIL CANNABIS LOCAL LICENSING STANDARDS**

Section 1. Applicability

All Licensees must comply with these regulations as well as all other applicable state laws, rules, and regulations, including but not limited to all rules promulgated by the Marijuana Enforcement Division of the Colorado Department of Revenue ("Retail Marijuana Regulations"). A Person must obtain the appropriate Licenses in accordance with these Retail Cannabis Local Licensing Standards ("Local Standards") and the applicable provisions of the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et seq.* ("Retail Marijuana Code") and the Retail Marijuana Regulations, prior to commencement of operation of a Retail Marijuana Establishment located within the unincorporated area of San Miguel County, Colorado ("County").

Section 2. Definitions

All terms not specifically defined in these Local Standards shall have the same meaning and definition as set forth in the Retail Marijuana Code and/or Retail Marijuana Regulations, attached hereto as Appendix A.

Applicant. Any Person identified on an Application as applying for a Local License for a Retail Marijuana Establishment.

Application. A form provided by the Local Licensing Authority for a Retail Marijuana Establishment in unincorporated San Miguel County together with all required information and documentation.

Cannabis. See the Definition of Marijuana or Marihuana at Colo. Const. Art. XVIII, Section 16(2) Definitions (f) and as set forth below in this Section 2.

Licensee. A Person holding current licenses, in good standing, issued by both the State Licensing Authority and the Local Licensing Authority to operate a Retail Marijuana Establishment.

Local License. A license for a Retail Marijuana Establishment that is issued by the Local Licensing Authority.

Local Licensing Authority. The Board of County Commissioners of San Miguel County or its duly authorized designee, which shall be the County Planning Director and/or their designee.

Marijuana or Marihuana. All parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana/marihuana concentrate. Marijuana/Marihuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient

combined with marijuana/marihuana to prepare topical or oral administrations, food, drink, or other product.

Operating Fee. A fee that may be charged by the Local Licensing Authority for costs, including but not limited to inspection, administration, and enforcement of retail marijuana establishments authorized pursuant to this article.

Retail Marijuana Establishment. A Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, and a Retail Marijuana Testing Facility, as such terms are defined in the Retail Marijuana Code.

Section 3. Local Licensing Authority and Classes of Licenses

The Local Licensing Authority shall be the Board of County Commissioners of San Miguel County, Colorado, or the San Miguel County Planning Director, or their designee. The Local Licensing Authority may only issue the following Local Licenses for Retail Marijuana Establishments authorized pursuant to the Retail Marijuana Code and Retail Marijuana Regulations, located in the unincorporated area of the County, upon payment of all required fees and subject to such Establishments' compliance with the Retail Marijuana Code, Retail Marijuana Regulations, and these Local Standards. The Local Licensing Authority shall determine whether an Application complies with the applicable County restrictions on time, place, and manner applicable to Retail Marijuana Establishments, including but not limited to any applicable County land use regulations.

- a) Retail Marijuana Store License
- b) Retail Marijuana Cultivation Facility License
- c) Retail Marijuana Products Manufacturing License
- d) Retail Marijuana Testing Facility License

Section 4. Local License Restrictions

The Local Licensing Authority shall not approve an Application for a Retail Marijuana Cultivation Facility unless the Applicant also holds a State and Local License for a Retail Marijuana Store, a Retail Marijuana Products Manufacturing facility, a Medical Marijuana Center, or a Medical Marijuana Infused Products Manufacturing Facility, located within San Miguel County, whether in an unincorporated area or within the boundaries of a municipality.

An Applicant who is applying for a Local License for a Retail Marijuana Store, and who holds a current Medical Marijuana License may operate the Medical Marijuana center and the Retail Marijuana Store at the same location, provided that:

- a) The Applicant signs an affidavit provided by the Local Licensing Authority that the Medical Marijuana will be sold only to Persons twenty-one years of age or older; or
- b) The Medical Marijuana center and the Retail Marijuana Store maintain actual physical separation, including entrances and exits, inventory, point of sale operations, and record keeping.

Section 5. Local License Applications

An Application for a new Local License of any type shall be submitted to the Local Licensing Authority on forms provided by the Local Licensing Authority. The Application shall include all documentation that the Local Licensing Authority requires pursuant to these Local Standards. An Applicant shall submit its Application for a new Local License to the Local Licensing Authority within fifteen days of the submittal of its state application to the State Licensing Authority. Failure to submit the Application within the required fifteen days may result in delays processing the Application.

Application documentation submitted to the Local Licensing Authority shall include supporting documentation sufficient to demonstrate the following:

- a) *Proof of the Right to Possess the Premises.* Documents that demonstrate proof of possession of the Retail Marijuana Establishment to the reasonable satisfaction of the Local Licensing Authority. This documentation may include a copy of a fully executed deed, lease, or contract that governs the terms and conditions of the occupancy of the Retail Marijuana Establishment for the full term of the Local License and State License and that the Retail Marijuana Establishment may be lawfully used in accordance with the Local License and State License.
- b) *Building Plans.* The plans for the interior of the Retail Marijuana Establishment shall include a detailed floor plan layout drawn to scale (1.4" = 1 foot) which clearly reflects the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, sewage disposal systems, filters and wastewater discharge systems and their locations, heating systems, and all grow light configurations. Where food products are prepared, a detailed plan for the food preparation area must be separately described. For Retail Marijuana Establishments that are in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted. All required drawings shall be submitted on paper that is 11" x 17" or larger.
- c) *Location Plan.* The location plan shall show all uses located within 1,000 feet of the property boundary line of the premises on which the Retail Marijuana Establishment is located, including, but not limited to: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, seminary, or residential child care facility; or (iii) a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring or nearby lot or parcel containing the specified use. All required drawings shall be submitted on paper that is 11" x 17" or larger.
- d) *Site Plan.* The site plan shall show the location of the building containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways. The site plan shall be submitted on paper 11" x 17" or larger.

- e) Fees. All applicable Operating Fees shall be submitted with the Application, made payable to San Miguel County.
- f) Corporate, LLC, or Partnership. Entity formation documents shall be provided for any licensee other than a sole proprietorship.
- g) Material Safety Data Sheets. Applicants shall include material safety data sheets for each proposed chemical and chemical mixture to be stored or used on the Licensed Premises.
- h) Fingerprints. A set of fingerprints for each Applicant shall be submitted to the San Miguel County Sheriff's Office for purposes of conducting a criminal background investigation. If deemed necessary, the Sheriff's Office may conduct an interview with any Applicant. The Sheriff's Office shall provide the Local Licensing Authority with a written recommendation as to whether the Application should be approved or denied based on the Sheriff's Office findings.
- i) Security Plan. The Security Plan shall provide a detailed description of the security measures for the Retail Marijuana Establishment. The Security Plan shall include all requirements listed in the Retail Marijuana Regulations, a copy of which is attached hereto as Appendix B. In its written recommendations, the Sheriff's Office may recommend that the Local Licensing Authority impose additional security measures.

The Local Licensing Authority shall have fifteen business days to review the Application to determine if it is complete. If the application is incomplete the Local Licensing Authority shall contact the Applicant in writing and specify the defects and/or deficiencies in the Application.

Prior to the Local Licensing Authority's final decision regarding an Application, the Applicant shall provide the following:

- a) Fire District Comments. Written comments or a letter from the appropriate fire district in which the Retail Marijuana Establishment is to be located for demonstrating compliance with the applicable adopted fire code provisions.
- b) Proof of County Land Use Approval. Documentation that demonstrates proof of land use approval issued by the San Miguel County Planning Department, Board of County Commissioners or County Planning Commission, as applicable. This documentation shall include, but is not limited to, any development permit, and any other site specific land use approval issued pursuant to the County Land Use Code showing that the Retail Marijuana Establishment has been approved for the use identified in the Application.
- c) San Miguel County Building Department Approval. For all Retail Marijuana Establishments located within a building or structure for which a San Miguel County Building permit is required the Applicant shall provide documentary proof of compliance with all applicable County building code standards, as well as documentary proof of compliance with all applicable state plumbing and electrical code standards.

- d) *Indemnification*. The Applicant shall execute and deliver a written indemnification to the Local Licensing Authority in consideration of granting the Application. The Local Licensing Authority shall provide the form for the indemnification.
- e) *Insurance*. If the Applicant has or obtains commercial general liability insurance coverage for the Retail Marijuana Establishment, the Applicant shall endorse the Local Licensing Authority as an additional insured and provide the Local Licensing Authority with a current certificate of insurance and endorsement naming the Local Licensing Authority as an additional insured for the term of the Local License.

The Local Licensing Authority may request that the County Building Official, the County Environmental Health Director, the Colorado State Electrical Board, or any other relevant state or local agency investigate the Retail Marijuana Establishment and provide a written recommendation to the Local Licensing Authority as to whether the Application should be approved or denied.

Section 6. Application Review

The Local Licensing Authority shall review all Applications administratively and without a public hearing unless one of the following occurs:

- a) If the Sheriff's Office's written recommendation pursuant to Sections 5(g) and (h) recommends denial of the Application the Local Licensing Authority shall promptly schedule the matter for a public hearing conducted pursuant to the Retail Marijuana Code unless the Applicant voluntarily withdraws the Application. If the Local Licensing Authority considers an Applicant's criminal history it shall also consider information submitted by the Applicant, including but not limited to evidence of rehabilitation, character references, and educational or other professional achievements.
- b) The Applicant may request a public hearing regarding the terms and conditions of a Local License approval. If requested, the Local Licensing Authority shall promptly notice and schedule a public hearing for consideration of the matter.
- c) If the Local Licensing Authority's designee recommends denial of an Application for any reason the Applicant shall be provided the opportunity for a duly noticed public hearing.

In addition to any other information reviewed by the Local Licensing Authority, the authority may also consider the licensing standards set forth in C.R.S. § 12-43.4-309 as applicable. If an Application is denied the Local Licensing Authority shall notify the Applicant and the State Licensing Authority in writing of the specific reason(s) for denial within ten days of the decision to deny the Application.

If an Application is approved, the Local License shall not be issued to the Applicant unless and until the State Licensing Authority has issued a State License to the Applicant for the Retail Marijuana Establishment(s) that is(are) the subject of the Application. Additionally, a Local License shall not be issued unless or until the County Building Official issues a certificate of

occupancy for the building in which the Retail Marijuana Establishment(s) is(are) to be conducted.

All Local Licenses shall be valid for a period not to exceed one year from the date of issuance, unless duly revoked or suspended. Unless otherwise provided, the term of a Local License shall begin to run on the date of issuance of the State Licensing Authority's license for the same Retail Marijuana Establishment and shall terminate on the same date as the State License. Nothing in this Section 6 or in these Local Standards shall limit the Local Licensing Authority's discretion to hold a public hearing pursuant to the Retail Marijuana Code for any Application.

Section 7. Retail Marijuana Establishment Operational Standards

All Retail Marijuana Establishments located within the unincorporated area of San Miguel County shall be operated in full compliance with all applicable standards set forth in the Retail Marijuana Code, the Retail Marijuana Regulations, and these Local Standards. Operational Standards include but are not limited to the following:

- a) There shall be no consumption of any alcoholic beverage, Retail Marijuana, or Medical Marijuana, including any Retail or Medical Marijuana Products in any Retail Marijuana Establishment.
- b) Persons under the age of 21 shall not be allowed in any Retail Marijuana Establishment unless that Person is accompanied by their parent or legal guardian.
- c) A Licensee, owner, manager, or employee of a Retail Marijuana Establishment shall promptly report all known criminal activity occurring within their establishment or on the property where the establishment is located to the Sheriff's Office.
- d) Retail Marijuana Establishments shall not store or display Marijuana or Marijuana Products in such a manner as to be visible from outside the establishment.
- e) All Retail Marijuana Establishments shall be constructed, maintained, and operated in compliance with all applicable San Miguel County building codes and fire codes.
- f) All Retail Marijuana Establishments shall install, maintain, and operate active carbon filtration systems, or functionally equivalent systems, such that the odor of marijuana is not detectable at the perimeter of the property on which the Retail Marijuana Establishment is located. Should such filtration system(s) cease to function for any reason the Licensee shall promptly (within not more than three days) notify the Local Licensing Authority and shall expeditiously proceed to repair and/or replace any such system so as to be fully operational within 10 days of the system(s) ceasing to function.
- g) All Retail Marijuana Establishments shall keep in full force and effect at all times workers' compensation insurance coverage as required by Colorado law.
- h) Retail Marijuana may not be sold to Persons under 21 years of age.

- i) No more than ¼ ounce of Retail Marijuana, and no more than ¼ ounce equivalent of a Retail Marijuana Product may be sold during a single retail transaction to any Person who is not a resident of the state of Colorado.
- j) In addition to any other security measures that state law may require, all cash kept at any Retail Marijuana Establishment shall be stored in a safe or vault affixed to the building structure of the Licensed Premises during non-business hours.
- k) Signage associated with Retail Marijuana Establishments shall comply with the applicable signage standards in the San Miguel County Land Use Code, the Retail Marijuana Code, and the Retail Marijuana Regulations.
- l) Retail Marijuana Establishments shall not be located within 1,000 feet of: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, seminary, or residential child care facility; or (iii) a drug or alcohol rehabilitation center.
- m) Retail Marijuana Stores in unincorporated San Miguel County may operate all days of the week from 8:00am - 12:00 midnight.

Section 8. Off-Premises Storage

An Applicant or Licensee who has received an off-premises storage permit from the Marijuana Enforcement Division must provide a copy of the permit to the Local Licensing Authority within seven days of the Applicant's or Licensee's receipt of the permit. In addition to the state permit, an off-premises storage facility cannot be opened or maintained without the prior written consent of the Local Licensing Authority. The following documentation and information shall be provided to the Local Licensing Authority for review:

- a) *Proof of the Right to Possess the Premises*. Documents that demonstrate proof of possession of the storage facility to the reasonable satisfaction of the Local Licensing Authority. This documentation may include a copy of a fully executed deed, lease, or contract that governs the terms and conditions of the occupancy of the storage facility for the full term of the Local License and State License and that the storage facility may be lawfully used in accordance with the Local License and State License.
- b) *Building Plans*. The plans for the interior of the storage facility shall include a detailed floor plan layout drawn to scale (1/4" = 1 foot) which clearly reflects the uses, functions, and operations within the building. For storage facilities that are in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted. All required drawings shall be submitted on paper that is 11" x 17" or larger.
- c) *Location Plan*. The location plan shall show all uses located within 1,000 feet of the property boundary line of the premises on which the storage facility is located, including, but not limited to: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, seminary, or residential child

care facility; or (iii) a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring or nearby lot or parcel containing the specified use. All required drawings shall be submitted on paper that is 11" x 17" or larger.

- d) Site Plan. The site plan shall show the location of the building containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways. The site plan shall be submitted on paper 11" x 17" or larger.
- e) Fingerprints. A set of fingerprints for each Person who will have access to the storage facility shall be submitted to the San Miguel County Sheriff's Office for purposes of conducting a criminal background investigation. If deemed necessary, the Sheriff's Office may conduct an interview with any such Person. The Sheriff's Office shall provide the Local Licensing Authority with a written recommendation as to whether the storage facility should be approved or denied based on the Sheriff's Office findings.
- f) Security Plan. The Security Plan shall provide a detailed description of the security measures for the storage facility. The Security Plan shall include all requirements listed in the Retail Marijuana Regulations, a copy of which is attached hereto as Appendix B. In its written recommendations, the Sheriff's Office may recommend that the Local Licensing Authority impose additional security measures.

Prior to the Local Licensing Authority's final decision regarding an off-premises storage facility, the following documentation shall be provided:

- a) Fire District Comments. Written comments or a letter from the appropriate fire district in which the storage facility is to be located for demonstrating compliance with the applicable adopted fire code provisions.
- b) Proof of County Land Use Approval. Documentation that demonstrates proof of land use approval issued by the San Miguel County Planning Department, Board of County Commissioners or County Planning Commission, as applicable. This documentation shall include, but is not limited to, any development permit, and any other site specific land use approval issued pursuant to the County Land Use Code showing that the storage facility has been approved for such use.
- c) San Miguel County Building Department Approval. For all storage facilities located within a building or structure for which a San Miguel County Building permit is required the Applicant or Licensee shall provide documentary proof of compliance with all applicable County building code standards, as well as documentary proof of compliance with all applicable state plumbing and electrical code standards.
- d) Indemnification. The Applicant or Licensee shall execute and deliver a written indemnification to the Local Licensing Authority in consideration of allowing use of the storage facility. The Local Licensing Authority shall provide the form for the indemnification.

- e) *Insurance*. If the Applicant or Licensee has or obtains commercial general liability insurance coverage for the storage facility, the Applicant or Licensee shall endorse the Local Licensing Authority as an additional insured and provide the Local Licensing Authority with a current certificate of insurance and endorsement naming the Local Licensing Authority as an additional insured.

The Local Licensing Authority may request that the County Building Official, the County Environmental Health Director, the Colorado State Electrical Board, or any other relevant state or local agency investigate the storage facility and provide a written recommendation to the Local Licensing Authority as to whether the facility should be approved or denied.

Section 9. Transfer of Ownership

A Local License is not transferable except as provided in C.R.S. § 12-43.4-308 and upon written approval of the Local Licensing Authority. The transferee shall provide the following information and documentation to the Local Licensing Authority for review:

- a) *Proof of the Right to Possess the Premises*. Documents that demonstrate proof of possession of the Retail Marijuana Establishment to the reasonable satisfaction of the Local Licensing Authority. This documentation may include a copy of a fully executed deed, lease, or contract that governs the terms and conditions of the occupancy of the Retail Marijuana Establishment for the full term of the Local License and State License and that the Retail Marijuana Establishment may be lawfully used in accordance with the Local License and State License.
- b) *Fingerprints*. A set of fingerprints for each transferee shall be submitted to the San Miguel County Sheriff's Office for purposes of conducting a criminal background investigation. If deemed necessary, the Sheriff's Office may conduct an interview with any transferee. The Sheriff's Office shall provide the Local Licensing Authority with a written recommendation as to whether the transfer in ownership should be approved or denied based on the Sheriff's Office findings.
- c) *Material Safety Data Sheets*. If the transferee plans to use chemicals or chemical mixtures different from those identified in the original Application, the transferee shall provide material safety data sheets for each new chemical or chemical mixture.

Prior to the Local Licensing Authority's final decision regarding a request for a transfer of ownership of a Local License the transferee shall provide the following:

- a) *Indemnification*. The transferee shall execute and deliver a written indemnification to the Local Licensing Authority in consideration of approving the transfer of ownership of the Local License. The Local Licensing Authority shall provide the form for the indemnification.
- b) *Insurance*. If the transferee has or obtains commercial general liability insurance coverage for the Retail Marijuana Establishment, the transferee shall endorse the Local Licensing Authority as an additional insured and provide the Local Licensing Authority

with a current certificate of insurance and endorsement naming the Local Licensing Authority as an additional insured for the term of the Local License.

Section 10. Change of Location

The location of the Retail Marijuana Establishment may be changed subject to the Licensee's compliance with C.R.S. § 12-43.4-309(12) and upon written approval of the Local Licensing Authority. The Licensee shall provide the following information and documentation to the Local Licensing Authority for review:

- a) *Building Plans*. The plans for the interior of the new location shall include a detailed floor plan layout drawn to scale (1.4" = 1 foot) which clearly reflects the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, sewage disposal systems, filters and wastewater discharge systems and their locations, heating systems, and all grow light configurations. Where food products are prepared, a detailed plan for the food preparation area must be separately described. For new locations that are in a multi-occupancy building, detailed drawings showing the wall construction that separates the ownerships or occupancies must also be submitted. All required drawings shall be submitted on paper that is 11" x 17" or larger.
- b) *Location Plan*. The location plan shall show all uses located within 1,000 feet of the property boundary line of the new premises, including, but not limited to: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, seminary, or residential child care facility; or (iii) a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring or nearby lot or parcel containing the specified use. All required drawings shall be submitted on paper that is 11" x 17" or larger.
- c) *Site Plan*. The site plan shall show the location of the building containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways. The site plan shall be submitted on paper 11" x 17" or larger.
- d) *Material Safety Data Sheets*. Material safety data sheets for each proposed chemical and chemical mixture to be stored or used on the new location.
- e) *Security Plan*. The Security Plan shall provide a detailed description of the security measures for the new location. The Security Plan shall include all requirements listed in the Retail Marijuana Regulations, a copy of which is attached hereto as Appendix B. In its written recommendations, the Sheriff's Office may recommend that the Local Licensing Authority impose additional security measures.

Prior to the Local Licensing Authority's final decision regarding a request for a change in location of a Retail Marijuana Establishment, the Licensee shall provide the following:

- a) *Fire District Comments.* Written comments or a letter from the appropriate fire district in which the new location is located for demonstrating compliance with the applicable adopted fire code provisions.
- b) *Proof of County Land Use Approval.* Documentation that demonstrates proof of land use approval issued by the San Miguel County Planning Department, Board of County Commissioners or County Planning Commission, as applicable. This documentation shall include, but is not limited to, any development permit, and any other site specific land use approval issued pursuant to the County Land Use Code showing that the new location has been approved for the use.
- c) *San Miguel County Building Department Approval.* If the new location is within a building or structure for which a San Miguel County Building permit is required the Licensee shall provide documentary proof of compliance with all applicable County building code standards, as well as documentary proof of compliance with all applicable state plumbing and electrical code standards.
- d) *Indemnification.* The Licensee shall execute and deliver a written indemnification to the Local Licensing Authority in consideration of granting the requested change in location. The Local Licensing Authority shall provide the form for the indemnification.
- e) *Insurance.* If the Licensee has or obtains commercial general liability insurance coverage for the new location of the Retail Marijuana Establishment, the Licensee shall endorse the Local Licensing Authority as an additional insured and provide the Local Licensing Authority with a current certificate of insurance and endorsement naming the Local Licensing Authority as an additional insured for the term of the Local License.

The Local Licensing Authority may request that the County Building Official, the County Environmental Health Director, the Colorado State Electrical Board, or any other relevant state or local agency investigate the new location and provide a written recommendation to the Local Licensing Authority as to whether the new location should be approved or denied.

Section 11. Modifications

After the issuance of a Local License, the Licensee shall not make any physical change, alteration, or modification to a Retail Marijuana Establishment without the prior written consent of the Local Licensing Authority. Those physical changes, alterations, or modifications to a Retail Marijuana Establishment that require the Local Licensing Authority's prior written consent include, but are not limited to:

- a) Any increase or decrease in the total physical size or capacity of the Retail Marijuana Establishment.
- b) Structural modifications to interior building plans.
- c) Modifications or increases in the electrical load generated by the Retail Marijuana Establishment.

- d) Modification or addition of any hazardous or toxic chemicals and chemical mixtures used or stored in or on the Retail Marijuana Establishment.
- e) In the event that the Licensee proposes modifications to the Security Plan, the Licensee shall provide a detailed description of the modified security measures. The Security Plan shall include all requirements listed in the Retail Marijuana Regulations, a copy of which is attached hereto as Appendix . The Sheriff's Office may recommend that the Local Licensing Authority impose additional security measures

The Local Licensing Authority's prior written consent shall not be required for painting and redecorating of the Retail Marijuana Establishment or for the replacement of furniture or equipment that does not increase the electrical load.

The Local Licensing Authority may conduct a duly noticed public hearing in its discretion. However, a hearing shall be conducted in the following circumstances:

- a) If the modification would increase the square footage of the any structure on the premises of the Retail Marijuana Establishment above the authorized square footage in the underlying Zone District, any applicable Land use Matrix, or as specified in an approved Special Use Permit.
- b) If the County has received any complaints or information indicating that the Retail Marijuana Establishment has not been operating in compliance with the requirements of their Local or State License.

The Local Licensing Authority may request that the fire district within which the Retail Marijuana Establishment is located, the County Building Official, the County Environmental Health Director, the Colorado State Electrical Board, or any other relevant state or local agency investigate the modification and provide a written recommendation to the Local Licensing Authority as to whether the modification should be approved or denied.

Section 12. License Renewals

Unless otherwise provided, a Local License shall renew automatically upon receipt of the documentation required for renewal of a State License and payment of any applicable Operating Fee. A Local License shall not renew automatically if the Licensee has failed to obtain a valid renewal of their State License, upon recommendation of the San Miguel County Sheriff's Office, or if the County has received any complaints or information indicating that the Retail Marijuana Establishment has not been operating in compliance with the requirements of the current Local or State License. If the Local License does not renew automatically the Local Licensing Authority may hold, or a Licensee may request, a duly noticed public hearing to the extent authorized by, and conducted in accordance with, C.R.S. § 12-43.4-310. If the Licensee has failed to obtain renewal of their State License the Local Licensing Authority shall not renew the corresponding Local License until the Licensee provides proof of valid renewal of their State License.

Section 13. Inspection of Premises/Licensee's Records

All Retail Marijuana Establishments shall be subject to inspection by the Local Licensing Authority and its authorized investigators, which may include the San Miguel County Sheriff and Sheriff's Deputies. Such an inspection can occur during all business hours and other times of apparent activity for the purpose of inspection of the establishment, investigation, and/or examination of inventory or books and records that the Licensee is required to keep pursuant to the Retail Marijuana Code, the Retail Marijuana Regulations and these Local Standards.

If any part of a Retail Marijuana Establishment is kept locked the Licensee shall make the locked area available for inspection without delay upon request by the Local Licensing Authority, its authorized representatives, and authorized investigators.

Section 14. Unlawful Acts/Enforcement

The Local Licensing Authority shall conduct all disciplinary and enforcement actions with respect to a Licensee in accordance with the Retail Marijuana Code, the Retail Marijuana Regulations and these Local Standards. For purposes of these Local Standards, unlawful acts shall include those acts specified in §12-43.4-901, C.R.S., as well as violations of any applicable provisions of the Retail Marijuana Code, the Retail Marijuana Regulations, and these Local Standards. Any disciplinary actions, which may include suspension or revocation of a License, and/or a fine, taken by the Local Licensing Authority shall be conducted in substantial compliance with the applicable provisions of the Retail Marijuana Code, the Retail Marijuana Regulations, and these Local Standards.

Section 15. Local Operating Fees

The Local Licensing Authority shall determine and set Operating Fees by resolution at any duly noticed meeting of the Board of County Commissioners of San Miguel County, acting as the Local Licensing Authority. The Local Licensing Authority may revise the Operating Fees at any time in its sole and reasonable discretion. All Operating Fees shall be paid to San Miguel County.

APPENDIX A

to

**San Miguel County, Colorado
Retail Cannabis Local Licensing Standards**

R 100 Series – General Applicability

Basis a Purpose – R 102

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so that if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged.

R 102 – Severability

If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

Basis and Purpose – R 103

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and not intended to be a defined term, it is not capitalized.

With regard to the definition of Child-Resistant, the State Licensing Authority relied extensively upon written commentary provided by a public health agency within a Colorado hospital, which had conducted a health impact assessment of packaging regulations, looking at accidental ingestion of medical marijuana. The assessment was supported by others in the public, including industry representatives and a physician specializing in medical toxicology.

With regard to the definition of Restricted Access Area, the State Licensing Authority relied extensively upon written commentary provided by a consumer advocate.

R 103 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 12-43.4-103, C.R.S., shall apply to all rules promulgated pursuant to the Retail Code, unless the context requires otherwise:

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any Person to patronize a particular a Retail Marijuana Establishment, or to purchase particular Retail Marijuana or a Retail Marijuana Product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Applicant" means a Person that has submitted an application pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Child-Resistant" means special packaging that is:

- a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995) and ASTM classification standard D3475-12, <http://www.astm.org/Standards/D3475.htm>. Note that this rule does not include any later amendments or editions to the Code of Federal Regulations or the ASTM classification standards. The Division has maintained a copy of the applicable federal regulation and ASTM classification standard, which are available to the public.
- b. Opaque so that the product cannot be seen from outside the packaging;
- c. Closable for any product intended for more than a single use or containing multiple servings, and
- d. Labeled properly as required by the R 1000 Series.

"Container" means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a consumer and that has been labeled according to the requirements set forth in Rules R 1002 *et. seq.*

"Denied Applicant" means any Person whose application for licensure pursuant to the Retail Code has been denied.

"Department" means the Colorado Department of Revenue.

"Director" means the Director of the Marijuana Enforcement Division.

"Division" means the Marijuana Enforcement Division.

"Edible Retail Marijuana Product" means any Retail Marijuana Product which is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

"Executive Director" means the Executive Director of the Department of Revenue.

"Exit Package" means a sealed Container or package provided at the retail point of sale, in which any Retail Marijuana or Retail Marijuana Product already within a Container are placed.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Retail Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency

Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flower" means the gametophytic or reproductive state of *Cannabis* in which the plant in in a light cycle intended to produce flowers, trichomes, and cannabinoids characteristic of marijuana.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license application, means:

- a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to it, or any supplemental relevant state or local law, rule, or regulation;
- b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or
- c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

"Harvest Batch" means a specifically identified quantity of processed Retail Marijuana that is uniform in strain, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested at the same time.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering Retail Marijuana or Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Retail Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of the Retail Code and these rules.

"Licensee" means any Person licensed pursuant to the Retail Code or, in the case of an Occupational License Licensee, any individual licensed pursuant to the Retail Code or Medical Code.

"Limited Access Area" means a building, room, or other contiguous area upon the Licensed Premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.

"Limit of Detection" or "LOD" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).¹

"Limit of Quantitation" or "LOQ" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"MITS" means Marijuana Inventory Tracking Solution.

"MITS Trained Administrator" means an Owner or an occupationally licensed employee of a Retail Marijuana Establishment who has attended and successfully completed MITS training and who has completed any additional training required by the Division.

"MITS User" means an Owner or occupationally licensed Retail Marijuana Establishment employee who is granted MITS User account access for the purposes of conducting inventory tracking functions in the MITS system and who has been successfully trained by a MITS Trained Administrator in the proper and lawful use of MITS.

"Medical Code" means the Colorado Medical Marijuana Code found at sections 12-43.3-101 *et. seq.*, C.R.S.

"Medical Marijuana" means "Medical Marijuana" means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

"Medical Marijuana Business" means a Medical Marijuana Center, a Medical Marijuana-Infused Product Manufacturing Business, or an Optional Premises Cultivation Operation.

"Medical Marijuana Center" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana-Infused Product" means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the "Colorado Food and Drug Act," part 4 of Article 5 of Title 25, C.R.S.

"Medical Marijuana-Infused Products Manufacturing Business" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Retail Marijuana Establishment Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a person in the business of providing security system Monitoring services for the Licensed Premises of a Retail Marijuana Establishment.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Occupational License" means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401 or 12-43.4-401, C.R.S.

"Optional Premises Cultivation Operation" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner" means the Person or Persons whose beneficial interest in the license is such that they bear risk of loss other than as an insurer, have an opportunity to gain profit from the operation or sale of the establishment, and have a controlling interest in a Retail Marijuana Establishment license, and includes any other Person that qualifies as an Owner pursuant to Rule R 204.

"Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that "Person" does not include any governmental organization.

"Production Batch" means a group of Retail Marijuana Product created from a production run of marijuana product.

"Proficiency Testing Samples" means performing the same analyses on the same samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of samples analyzed are appropriate to test and display similarities and differences in results.

"Propagation" means the reproduction of Retail Marijuana plants by seeds, cuttings or grafting.

"RFID" means Radio Frequency Identification.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Retail Marijuana Store where Retail Marijuana and Retail Marijuana Product are sold, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Code" means the Colorado Retail Marijuana Code found at sections 12-43.4-101 *et. seq.*, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

"Retail Marijuana Product" means concentrated Retail Marijuana and Retail Marijuana Product that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible product, ointments, and tinctures.

"Retail Marijuana Products Manufacturing Facility" means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and sell Retail Marijuana and Retail Marijuana Product only to other Retail Marijuana Products Manufacturing Facilities and Retail Marijuana Stores.

"Retail Marijuana Store" means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

"Retail Marijuana Testing Facility" means an entity licensed and certified to analyze and certify the safety and potency of Retail Marijuana.

"Sample" means any Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product provided for testing or research purposes to a Retail Marijuana Testing Facility by a Retail Marijuana Establishment or Medical Marijuana Business.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shipping Container" means any container or wrapping used solely for the transport of Retail Marijuana or Retail Marijuana Product in bulk, or in a quantity for other Retail Marijuana Establishments.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 12-43.3-201, C.R.S.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating Retail Marijuana or a Retail Marijuana Product is within a Container.

"Unrecognizable" means marijuana or *Cannabis* plant material rendered indistinguishable from any other plant material.

"Vegetation" means the sporophytic state of the *Cannabis* plant that is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Basis and Purpose – R 104

The statutory authority for this rule exists in subsections 12-43.4-(3)(a)(IX) and 24-4-105(11), and section 12-43.4-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may petition the Division to get a formal position by the State Licensing Authority on issues that will likely be applicable to other Licensees. By utilizing this system, Licensees can ensure that their due process rights are protected because the Administrative Procedure Act will apply. This system works for other divisions within the Department of Revenue and helps the regulated community get clarity on yet-unknown issues.

R 104 – Declaratory Orders Concerning the Retail Code

- A. Who May Petition for Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Retail Code, or any regulation of the State Licensing Authority. The Division shall respond with a written statement of position within 30 days of receiving a proper petition.
- B. Petition for Declaratory Order. Any person who has properly petitioned the Division for a statement of position, and who is dissatisfied with the statement of position or who has not received a response within 30 days, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. A petition shall set forth the following:
1. The name and address of the petitioner.
 2. Whether the petitioner is licensed pursuant to the Retail Code, and if so, the type of license and address of the Licensed Premises.
 3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant local jurisdiction.
 4. The statute, rule, or order to which the petition relates.
 5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.
 6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.
 7. A concise statement of the declaratory order sought by the petitioner.

APPENDIX B

to

**San Miguel County, Colorado
Retail Cannabis Local Licensing Standards**

3. Raw Ingredients May Be Shared. Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.
4. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances, and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana and Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sale floor. Record-keeping for the business operations of both must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Products from Retail Marijuana and Retail Marijuana Product. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores may be considered a license violation affecting public safety.
5. Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years. A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its Licensed Premises.
6. Clear Separation of Inventory. A Licensee that operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for Medical Marijuana and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the product can be reconciled to a particular Medical Marijuana Business or a Retail Marijuana Establishment.

Basis and Purpose – R 305

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(V), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Product contained therein. This rule also establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security.

R 305 – Security Alarm Systems and Lock Standards

- A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Retail Marijuana Establishments.
 1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.
3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. See Rule R 901 – Business Records Required.
4. Upon request, Licensees shall make available to agents of the Division or relevant local jurisdiction or state or local law enforcement agency, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.
5. Any outdoor Retail Marijuana Cultivation Facility, or greenhouse cultivation, is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this rule. An outdoor or greenhouse Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. This shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Retail Marijuana Cultivation Facility located in an indoor Licensed Premises so it can be fully secured and alarmed.

B. Lock Standards – Minimum Requirement

1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door locks.
2. Any outdoor Retail Marijuana Cultivation Facility, or greenhouse cultivation, must meet all of the requirements for the lock standards described in this rule.

Basis and Purpose – R 306

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(d), and 12-43.4-202(3)(a)(V), and section 12-43.4-701, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Product contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security.

R 306 - Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Retail Marijuana Establishments.

1. Prior to exercising the privileges of a Retail Marijuana Establishment, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.
3. Video surveillance records and recordings must be made available upon request to the Division, the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.
4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.
2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.
3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.
4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage

1. Camera coverage is required for all Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Retail Marijuana or Retail Marijuana Product is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.
2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.
3. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Retail Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.
6. Areas where Retail Marijuana is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.
8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

1. The surveillance room or surveillance area shall be a Limited Access Area.
2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division and relevant local jurisdiction, state or local law enforcement agencies for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, and service personnel or contractors.
3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.
4. Off-site Monitoring and video recording storage of the Licensed Premises by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.
5. Each Retail Marijuana Licensed Premises located in a common or shared building, or commonly owned Retail Marijuana Establishments located in the same local jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Retail Marijuana Establishments located in the same local jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned retail facilities. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Establishment may have one central surveillance room located at the shared Licensed Premises. See Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.
2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.
3. The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the Licensed Premises.
4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture.
5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: <http://www.time.gov/timezone.cgi?Mountain/d/-7/java>
6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.
2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

