

BOULDER COUNTY MARIJUANA LICENSING REGULATIONS

Article 1: Purpose and Intent

Section 14 of article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. (the "CMMC"). In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1500, Medical Marijuana Rules ("the MMR"). The CMMC and MMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, to enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. (the "CRMC"). In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1500, Retail Marijuana Rules ("the RMR"). The CRMC and the RMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. non- medical) marijuana establishments within their jurisdictions.

The purpose of these Regulations is to authorize licensing in unincorporated Boulder County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of Marijuana Businesses and Establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Boulder County by prescribing the manner in which Marijuana Businesses and Establishments can be conducted in the county. By enacting these Regulations, Boulder County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these Regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Article 2: Defined Terms

The definitions in the CMMC, § 12-43.3-104, C.R.S., as amended, and the CRMC, § 12- 43.4-103, C.R.S. shall apply to these Regulations.

- a) "Authority": the Boulder County Marijuana Licensing Authority.
- b) "Applicant": A Person that has submitted an application pursuant to these Regulations that was accepted for review but has not been approved or denied.
- c) "Dual Operation": A facility that simultaneously operates a licensed Medical Marijuana Business and licensed Retail Marijuana Establishment.
- d) "Dual Retail Business Operation": A dual operation of a Medical Marijuana Center and Retail Marijuana Store.
- e) "Dual Cultivation Business Operation": A dual operation of a Medical Marijuana Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility.
- f) "Dual Manufacturing Business Operation": A dual operation of a Medical Marijuana Infused Products Manufacturer and a Retail Marijuana Products Manufacturer.

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- g) “Dual Testing Business Operation”: A dual operation of a Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility.
- h) “Electronic ID Scanner”: A device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- i) “Licensed Premises”: The premises specified in an application for a license pursuant to these Regulations that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store or test Medical and/or Retail Marijuana in accordance with the provisions of these Regulations.
- j) “Licensee”: Any Person licensed pursuant to these Regulations or, in the case of an Occupational License Licensee, any individual licensed pursuant to the CRMC or CMMC.
- k) “Limited Access Area”: A building, room, or other contiguous area upon the Licensed Premises where Medical and/or Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.
- l) “Local Jurisdiction”: The city, county, municipality, or city and country where the licensed Marijuana Business, Establishment or Dual Operation is located.
- m) “Medical Marijuana”: Marijuana that is grown and sold pursuant to the CMMC and includes seeds and immature plants.
- n) “Medical Marijuana Business”: A licensed Medical Marijuana Center, Medical Marijuana-Infused Product Manufacturer, Optional Premises Cultivation Operation, or Medical Marijuana Testing Facility.
- o) “Medical Marijuana Center”: A Person licensed pursuant to the CMMC and these Regulations 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.
- p) “Medical Marijuana-Infused Products Manufacturer”: A Person licensed pursuant to the CMMC and these Regulations to operate a business as described in section 12-43.3-404, C.R.S.
- q) “Medical Marijuana Testing Facility”: A public or private laboratory licensed and certified, or approved by the State, to conduct research and analyze Medical Marijuana, Medical Marijuana-Infused Products, and Medical Marijuana Concentrate for contaminants and potency.
- r) “Off-Premises Storage Facility”: A permitted facility that is an extension of the Licensee’s licensed premises, that allows a Medical Marijuana Business, Retail Marijuana Establishment or a Dual Operation to store Medical Marijuana, Medical Marijuana Product, Retail Marijuana or Retail Marijuana Product that are part of its finished goods inventory. The Licensee may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail marijuana Establishment that is not commonly-owned.
- s) “Off-Premises Storage Permit”: An extension of a Medical Marijuana Business, Retail Marijuana Establishment, or Dual Operation’s licensed premises that is subject to all applicable medical or retail marijuana regulations.
- t) “Optional Premises Cultivation Operation”: A Person licensed pursuant to the CMMC to operate a business as described in section 12-43.3-403, C.R.S.

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- u) “Order to Show Cause”: A document from the Authority alleging the grounds for imposing discipline against a Licensee’s license.
- v) “Owner”: The Person(s) 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 Medical Marijuana Business and/or Retail Marijuana Establishment license, and includes any other Person that qualifies as an Owner. The holder of a suitable Permitted Economic Interest is not an Owner.
- w) “Person” : 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.
- x) “Retail Marijuana”: 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.
- y) “Retail Marijuana Cultivation Facility”: An entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.
- z) “Retail Marijuana Establishment”: A Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility.
- aa) “Retail Marijuana Products Manufacturing Facility”: An entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Products; and sell Retail Marijuana and Retail Marijuana Products only to other Retail Marijuana Products Manufacturing Facilities and Retail Marijuana Stores, but not to consumers.
- bb) “Retail Marijuana Store”: 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.
- cc) “Retail Marijuana Testing Facility”: A public or private laboratory licensed and certified, or approved by the State, to conduct research and analyze Retail Marijuana, Retail Marijuana Products, and Retail Marijuana Concentrate for contaminants and potency.
- dd) “State”: The Marijuana Enforcement Division of the Colorado Department of Revenue.

Article 3: Local Licensing

- a) Local License Required. Except as provided in paragraph b it is unlawful to operate any business in unincorporated Boulder County for which a license is required under the

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CMMC or CRMC without first having obtained a local license under these Regulations and a state license under state code.

- b) *Pre-existing businesses.* Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the CMMC and the Boulder County Land Use Code prior to July 1, 2012 may continue in business if, on or before September 4, 2012, the person submitted an application for local licensing under these Regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked.
- c) *Dual Licenses.* Dual Operations are permitted so long as appropriate State and Boulder County licenses have been issued and remain valid and active for both operations.
- d) *No entitlement or vested right.* No person shall have any entitlement or vested right to licensing under these Regulations, the CMMC, the CRMC, Boulder County zoning approvals, or Boulder County building permits. To lawfully engage in the business of selling, cultivating, testing, storage, or manufacturing of marijuana in unincorporated Boulder County, all persons must obtain a license or permit under these Regulations. Such a license or permit is a revocable privilege subject to the will and scrutiny of local and state authorities.

Article 4: Relationship to Other Laws

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

Article 5: Authority

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

Article 6: Licenses

The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: Medical Marijuana Center license; Medical Marijuana Optional Premises Cultivation license; Medical Marijuana Infused Product Manufacturer license; Medical Marijuana Testing Facility license; Retail Marijuana Store license; Retail Marijuana Cultivation Facility license; Retail Marijuana Products Manufacturing Facility license; Retail Marijuana Testing Facility license; and an Off-Premises Storage Permit. The license requirements in these Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. The license does not provide

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any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, production, distribution, testing, storage, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the CMMC and the CRMC.

Article 7: Licensing Procedure

- a) **General Procedure.** The Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall defer to the State to enforce compliance with the requirements in the CMMC and the CRMC and any other State regulations not covered by these Regulations. The Authority shall grant or deny a license or permit based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application or permit that is not in full compliance with these regulations. The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these Regulations.
- b) **Application forms.**
 1. All applications for a new Marijuana Business, Establishment, or Dual Operation licenses shall be made upon current forms provided by the State and shall include the Boulder County New Marijuana Business/Establishment License Application form or a Boulder County Marijuana Business/Establishment Off-Premises Storage Permit Application and all documentation required by the Authority. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.
 2. All applications for conversions from a licensed Medical Marijuana Business to a Retail Marijuana Establishment shall be made upon forms provided by the State and shall include the Boulder County Marijuana Business/Establishment Conversion Application form and all documentation required by the Authority.
 3. All applications must be complete before being accepted or considered by the Authority.
 4. All applications must include all attachments or supplemental information required by the form.
 5. All applications must be accompanied by a full remittance for the whole amount of the application and license fees.
 6. The Authority may refuse to accept an incomplete application.
 7. An Applicant's failure to provide any requested information by the Authority deadline may be grounds for denial of the application.
 8. The sum of the percentages of ownership of all Owners of a Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation must equal 100%, and must maintain 100% ownership, held by the Owners who possess current and valid licenses or permits.
- c) **Other County Departments.** Upon receipt of an application under 7(b) above, the Authority shall circulate the application to the Land Use Department, the Transportation Department, Public Health, and the Treasurer's Office. These departments should

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employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute approval of the license.

d) Licensed Premises – General Requirements.

1. A Medical Marijuana Center that prohibits patients under the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate a Dual Retail Business Operation on the same Licensed Premises if the two are commonly owned.
2. A Medical Marijuana Center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. Even when the two are commonly owned, the two shall maintain distinctly separate Licensed Premises; including, but not limited to, separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
3. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises in order to operate a Dual Cultivation Business Operation if the two are commonly owned.
4. A Medical Marijuana-Infused Products Manufacturer may apply to also hold a Retail Marijuana Products Manufacturing Facility License and operate a Dual Manufacturing Business Operation on the same Licensed Premises, if the two are commonly owned.
5. A Medical Marijuana Testing Facility Licensee and a Retail Marijuana Testing Facility Licensee may share a single Licensed Premises to operate a Dual Testing Business Operation at the same location if the two are identically owned.

Article 8: Licensing Requirements

- a) Before issuing a local license for a new Marijuana Business or Retail Marijuana Establishment, the Authority shall determine that all of the following requirements have been met:
1. The appropriate application is complete and all fees have been paid;
 2. The Land Use Director or designee has determined:
 - a. The use is permitted and that the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the property;
 - c. All existing or proposed signage meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting meets the Land Use Code's lighting requirements;
 - e. All structures in which the use is located have been inspected by the Chief Building Official (the "Building Official") or designee, who has determined the structure complies with all applicable building code provisions, and all necessary building permits have been obtained;

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3. The Public Health Director or designee has determined the property has all required well and septic permits or is adequately served by public water and sewer;
 4. The Treasurer or designee has determined there are no overdue property taxes for the property or any property in the county owned by the business owner(s);
 5. The Transportation Engineer or designee has determined the Medical Marijuana Business or Retail Marijuana Establishment has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the proposed site, and has suitability mitigated any traffic hazards associated with the use;
- b) Additionally, before issuing a local license for a conversion from a Medical Marijuana Business to a Retail Marijuana Establishment or conversion to a Dual Operation, the Authority shall determine that all of the following requirements have been met:
1. The appropriate application is complete and all fees have been paid;
 2. The business has a current and valid Medical Marijuana Business license, for the premises issued by the Authority.
 3. The proposed activity must take place on the same parcel as the current licensed area unless a modification has been approved as provided for under Article 11(d) below;
 4. No offensive odors have been reported, or odor issues have been rectified as confirmed by Public Health.
 5. For a Dual Retail Business Operation documentation of the required signage and receipt labeling has been provided.
 6. No outstanding violations of these Regulations or licensing requirements exist on the property where the proposed establishment is located.
- c) Separation of Licensed Dual Operations.
1. Cultivation Operations. A Licensee that operates an Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record-keeping for the business operations and labeling of product must enable the State and Local Licensing Authority to clearly distinguish the inventories and business transactions of the Medical Marijuana Business from the Retail Marijuana Establishment.
 2. Manufacturing Operations. A Licensee that operates a Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record-keeping for the business operations and labeling of products must enable the State and Local Licensing Authority to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Product from Retail Marijuana Product.
 3. Raw Ingredients May Be Shared. Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw

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ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.

4. Testing Facilities. A co-located Medical Marijuana Testing Facility and Retail Marijuana Testing Facility shall maintain either physical or virtual separation of the facilities and marijuana and products being tested. Record keeping for the business operations and labeling of products must enable the State and Local Licensing Authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product or Retail Marijuana and Retail Marijuana Product.
- d) Before issuing a new Off-Premises Storage Permit, the Medical Marijuana Business, Retail Marijuana Establishment, or Dual Operation along with meeting all of the requirements of Article 8(a), will need the following requirements met and approved by the Authority:
1. Prior to submitting an application for an Off-Premises Storage Facility Permit, the Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation must obtain confirmation of acknowledgement of good standing from the relevant Local Jurisdiction. A copy of this acknowledgment must be submitted with the application.
 2. No Medical Marijuana, Medical Marijuana Product, Retail Marijuana or Retail Marijuana Product may be stored within a permitted storage facility until the Authority has approved the permit and has been provided a copy of the Off-Premises Storage Facility permit from the State.
 3. Any Off-Premises Storage Permit issued by the Authority shall be conditioned upon the Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation's receipt of all required Local Jurisdiction and State approvals or acknowledgments.
 4. Off-Premises Storage Permit Authorized. A Marijuana Business or Establishment may only store Medical Marijuana, Medical Marijuana Product, Retail Marijuana or Retail Marijuana Product in its Licensed Premises or in its one permitted Off-Premises Storage Facility.
 5. Permitting. To obtain a permit for an Off-Premises Storage Facility, a Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation must apply on current Local Jurisdiction and State forms and pay any applicable fees.
 6. Extension of Licensed Premises. A permitted Off-Premises Storage Facility shall constitute an extension of the Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation's Licensed Premises, subject to all applicable Local Jurisdiction and State regulations.
 7. Limitation on Inventory to be Stored. The Medical Marijuana Business, Retail Marijuana Establishment or Dual Operation may only have upon the permitted Off-Premises Storage Facility Medical Marijuana, Medical Marijuana Product, Retail Marijuana or Retail Marijuana Product that are part of its finished goods inventory. The Licensee may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail marijuana Establishment that is not commonly-owned.

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

Article 8.5: Operation Requirements

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

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h) Additional requirements for Medical Marijuana Centers, Retail Marijuana Stores or Dual Retail Business Operations:

1. 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 Licensing Authority, the Medical Marijuana Center and Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana, Retail Marijuana, Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sales floor. Record-keeping for the business operations of both must enable the State and Local Licensing Authority 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.
 2. Retail Stores and Medical Marijuana Centers: Patients Under the Age of 21 Years. A Dual Operation of a 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. A Dual Retail Business Operation must post signage that clearly conveys the age requirements for each licensed premises.
 3. Receipts. Receipts must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."
 4. Proof of age. Proof of age of every person entering the business or establishment must be verified with an Electronic ID Scanner.
- i) Sustainability. All marijuana cultivation operations must meet the following requirements, unless the Authority, in consultation with the Building Official, grants an extension of time for good cause shown.
1. A sustainability report must be submitted to the Building Official that documents all electrical energy consumed including any fuel associated with generators or CO2 generation since the previous quarter or the start date of the operation. This report must be made on the form provided by the Chief Building Official and must contain all required supplemental information.

Usage Dates

January through March
April through June
July through September
October through December

Report Due

Last business day of April
Last business day of July
Last business day of October
Last business day of January

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2. The sustainability report must be created and signed by an independent third-party commissioning agent who is approved by the Building Official, unless the facility is participating in the Boulder County Energy Impact Offset Fund (BCEIOF), as provided in subparagraph (5). All fuels must be converted to kilowatt hours (“kWh”) using the rate of 3412 Btu = 1 kWh. Documentation of source of consumption data is required. If a cultivation facility is participating in the BCEIOF, then energy usage does not have to be separately reported in the sustainability report.
3. A cultivation operation must directly offset 100% of electricity and any natural gas, liquid fuel, bio-fuel or propane consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official. The offset must be demonstrated in the sustainability report approved by the Building Official.
4. All lamps must be disposed of at a hazardous waste or comparable facility and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented.
5. In lieu of the offset requirements contained in subsections (2) & (3) of this article, a facility may choose to participate in the BCEIOF. The owner(s) of such facilities must sign a BCEIOF agreement in which they agree to abide by all terms, requirements, and conditions of the BCEIOF program. Failure to make any payment shall be considered a violation pursuant to Article 13.

Article 9: Inspection

By signing and submitting a license application, the owner of the business or establishment certifies that the applicant has received permission from the property owner to allow inspections as may be required under state or local licensing law. In addition, the owners authorize the Authority or designee and the Building Official or designee, to enter upon and inspect the premises. Such inspections, if necessary, shall take place at a reasonable time with prior notice to the property owner, and prior to a determination on the application. Upon request, the owner of the business or establishment shall timely provide the Authority with records related to the business. This section shall not limit any inspection authorized under any other provision of law or regulation.

Article 10: Decision and Appeal

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

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response, the Authority may deny the request, issue a revised denial letter, or issue a local license. A denial letter, revised denial letter or local license denial is subject to judicial review as specified in to C.R.S. §12-43.3-801 or Colorado Rule of Civil Procedure 106(a)(4), as applicable, but issues that were or could have been decided by the Board of Adjustment may not be raised in such a proceeding.

- c) A determination by the Land Use Director or designee, under Article 8(a)(2) above, that the use is not permitted or that the owner or operator has not obtained the required approvals under the Land Use Code, shall constitute a final decision of the Director appealable to the County Board of Adjustment under the applicable provisions of Article 4 of the Land Use Code. When the Authority receives such a determination, the Authority shall not issue a decision on the licensing application for thirty days. If the applicant files an appeal to the Board of Adjustment, the Authority shall not issue a decision on the licensing application until such appeal is finally resolved, unless a separate reason for denial exists.
- d) A pre-existing business operating under Article 3(b) must cease operation within forty-five days after the issuance of a denial letter or revised denial letter, as applicable.

Article 11: Changes in License

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

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

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are involved in an administrative investigation or administrative disciplinary action, the following may apply:

- a. The transfer of ownership may be delayed or denied until administrative action is resolved; or
- b. If the transfer of ownership is approved in writing by both the State and the Authority, the transferee(s) may be responsible for the actions of the Marijuana Business, Establishment or Dual Operation and its prior owners, and subject to discipline based upon the same.
- c) *Change of Location.* A change to the location of a business or establishment shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form, including the procurement of all permits and approvals from the Land Use Department. The license shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate at the former location. At no time may a Licensee operate or exercise any of the privileges granted pursuant to the license at both locations. For good cause shown, the 120 day deadline may be extended for an additional 90 days. To be approved for a change of location the new location must comply with Articles 8 and 8.5 of these Regulations.
- d) *Modification of Premises.* A modification of any building structure where a Marijuana Business or Establishment or an Off-Premises Storage Facility is located is subject to all applicable provisions of the Land Use Code and County building code. Any modification of premises shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.
- e) *Change of Mailing Address.* Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.
- f) *Change in Trade Name.* Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on a Boulder County Marijuana Licensing Report of Changes form.

Article 12: Term of License or Permit; Renewal

- a) *Term of License or Permit.* Boulder County Medical Marijuana Business license, Retail Marijuana Establishment license, and Off–Premises Storage Permits shall be valid for a period of one year or upon the expiration and non-renewal of the associated license or permit, whichever occurs first.
- b) *Renewal of License or Permit.*
 1. A renewal application, renewal fee, operating fee, and any required accessory license operating fees must be submitted at least forty-five days before the expiration of the license or permit, or a late fee may apply. Failure to submit a renewal application prior to the expiration date of a license or permit will result in the revocation of a license or permit on the expiration date.

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2. No violations of these Regulations exist. Renewal of any local license or permit is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place.
 3. All reports of offensive odors must have been rectified as confirmed by Public Health.
 4. If the Licensee timely applies for the renewal of an existing license, the Authority may administratively continue the license beyond the expiration date while it completes the renewal licensing process.
 5. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Authority accepts the application, then the Authority may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- c) License Not Renewed or Administratively Continued.
1. In the event the license is not renewed prior to expiration, a Marijuana Business, Establishment or Dual Operation may not operate unless it has been administratively continued.
 2. If a Licensee files a renewal application after the date of expiration, the application will be treated as a new license application.
- d) Licensees Subject to Ongoing Discipline and/or Suspension. Licenses that are the subject of a suspension, a disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not timely renewed will expire.

Article 13: Violations

- a) Order to Show Cause. If the Authority has reasonable cause to believe that a license has violated the CMMC, CRMC or these Regulations, it shall issue an Order to Show Cause, specifically identifying the alleged violation(s), advising that action may be taken against the license, and giving the licensee ten days to provide a response in writing.
- b) Decision. Based on the licensee's response and any other evidence that has been presented, the Authority shall determine if a violation has occurred, and if so, the appropriate penalty. The Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
- c) Penalties. The Authority will make a determination regarding the type of penalty to impose based on the severity of the violation in the following categories:
1. License Infractions. This category of violation is the least severe and may include, but is not limited to, air quality complaints, unauthorized modifications of the premises of a minor nature, or failure to notify the Authority of a minor change in ownership. The range of penalties for this category of violation include a verbal or written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include license restrictions.

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2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, unrectified odor issues, advertising and/or marketing violations, unauthorized modifications of the premises, failure to notify the Authority of a change in ownership. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
 3. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, medical marijuana sales to non-patients, consuming marijuana on the Licensed Premises, marijuana sales in excess of the relevant transition limit, violations related to collocated Medical Marijuana Businesses and Retail Marijuana Establishments, packaging or labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation. Sanctions may also include restrictions on the license.
- d) Fines. Fines of \$3,000 for each offense may be imposed for a licensee's violations. If a licensee has had multiple violations within a three-year period, fines of \$5,000 for each offense may be imposed. If a license has been suspended pursuant to this Article 13 for fourteen days or less, the licensee may petition the Authority for a fine in lieu of suspension, and the Authority in its sole discretion may grant this request, pursuant to C.R.S. §12-43.3-601(3). Any fine must be paid within thirty days of a final decision by the Authority or the license will be suspended, unless the Authority grants a longer period.
 - e) Appeal Process. Within ten days of any decision by the Authority, the licensee may provide a written response by submitting a letter to the Authority clearly stating its position. In response, the Authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A licensee may continue to operate during the pendency of an appeal. The Authority may grant extensions of deadlines under this Article for good cause shown.
 - f) Upon Denial or Revocation of a State License. Any license issued under these Regulations shall be null and void if a court of competent jurisdiction determines that the issuance of local licenses violates federal law, all licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Article 14: Fee Structure.

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

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

- b) *New Retail Marijuana Establishment Licenses*. An individual Application Fee will be received from the State for each license. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

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

- c) *Conversion from a Medical Marijuana Business to a Retail Marijuana Establishment or Dual Operations*. An individual Application Fee will be received from the State for each license. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

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

- d) *New Off-Premises Storage Permit*. An Application Fee and Annual Operating Fee will be due when turning in your application. Please include a copy of both your current Local & State licenses and also your current Local & State license applications. Local & State approval is part of the application process for the permit.

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

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e) Administrative fees.

Renewal	\$300
Transfer of Ownership	\$100
Change in Ownership Structure	\$50
Change of Location	\$2,500
Change in Mailing Address	\$50
Change in Trade Name	\$50
Modification of Premises	\$500
Late Fee	\$500

The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable. The Board of County Commissioners has authority to set and amend fees.

Article 15: Severability

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