



SEP 13 2012 12:07

**CHAFFEE COUNTY COLORADO
RESOLUTION 2012-28 Corrected 2011-28 Reception #402188**

ADOPTING MEDICAL MARIJUANA BUSINESS LICENSING REGULATION

WHEREAS, Article XVII, Section 14, of the Colorado Constitution allows limited medical uses of marijuana.

WHEREAS, the Colorado legislature enacted article 43.3 of Title 12 of the Colorado Revised Statutes that authorized counties to determine whether to permit certain medical marijuana businesses within their jurisdictions and, if so, to develop local licensing standards.

WHEREAS, pursuant to Chaffee County Resolution 2011-19, the Chaffee County Board of Commissioners (the "Board") prohibited Medical Marijuana Centers, as defined in C.R.S. §12-43.3-104(8), in any zone in unincorporated Chaffee County and, except for certain grandfathered operations, prohibited medical marijuana Optional Premises Cultivation Operations, as defined in C.R.S. §12-43.3-104(12), in any zone in unincorporated Chaffee County except for the Industrial Zone. Further, the Board prohibited Medical Marijuana-Infused Products Manufacturers, as defined in C.R.S. §12-43.3-104(10), in any zone in unincorporated Chaffee County except for the Industrial Zone.

WHEREAS, Resolution 2011-19 allows for grandfathered operations to be transferred only with the consent of the Chaffee County Board of Commissioners, provided there is no break in operations.

WHEREAS, Resolution 2011-32 allows for medical marijuana centers legally established within the municipal limits of Salida, Poncha Springs, or Buena Vista, that have an existing optional premise cultivation center in another county to change the location of the off-premises cultivation center license to a location entirely within an Industrial zone, with the consent of the Chaffee County Board of Commissioners.

WHEREAS, the Board desires to establish certain rules, procedures, standards and fees with respect to local licensing of medical marijuana businesses in unincorporated Chaffee County as provided in C.R.S. 12-43.3-301(2)(a). The establishment of such rules, procedures and fees are necessary for the public health, safety and welfare of the citizens of Chaffee County.

NOW THEREFORE be it resolved by the BoCC that the Chaffee County Medical Marijuana Business Licensing Regulations as set forth in the attached Exhibit A are hereby approved, effective July 1, 2012.

ADOPTED AND APPROVED by the Chaffee County Board of County Commissioners on June 26, 2012.

BOARD OF COUNTY COMMISSIONERS


[Acting] Chairman

The vote on the above Resolution was as follows:

Commissioner Frank F. Holman For

Commissioner Dennis Giese For

Commissioner Dave Potts For

STATE OF COLORADO, CHAFFEE COUNTY
ATTEST:

The above is a true and correct record of Resolution 2012-28 duly adopted by the Chaffee County Board of County Commissioners by a 3-0 vote at a regular meeting, properly noticed and held on June 26, 2012.

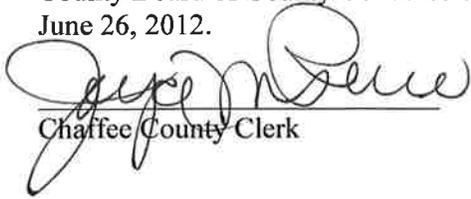

Chaffee County Clerk



EXHIBIT A

**CHAFFEE COUNTY MEDICAL MARIJUANA BUSINESS LICENSING
REGULATIONS**

Article 1: Applicability and Purpose.

Limited medical marijuana use is allowed in Colorado under the provisions of Section 14 of article XVII of the Colorado Constitution and the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S (“State Regulations”). These laws authorize counties and municipalities to permit and regulate certain medical marijuana businesses within their jurisdictions. The purpose of these regulations is to further prescribe the manner in which medical marijuana businesses can be conducted in the county and to authorize licensing in unincorporated Chaffee County as provided in § 12-43.3-301(2)(a), C.R.S., as amended.

Article 2: Applicability.

All licenses must comply with: the regulations set forth below, all other applicable state laws, rules and regulations as amended, and the County Land Use Code and Zoning Resolution, all Building Codes, and other rules and regulations as amended. A person or entity must obtain a license in accordance with these Regulations (“Local Regulations”) and the applicable State Regulations prior to operating a medical marijuana business in Chaffee County. All terms in these Local Regulations shall have the same meaning and definition as in the Chaffee County Land Use Regulations, the State Regulations, and all rules duly adopted by the State Licensing Authority unless specifically stated otherwise.

Article 3: Effective date and applicability.

(a) *Effective date.* These regulations shall become effective upon adoption by the Board of County Commissioners for Chaffee County. Except as provided in section (c) below, on and after such adoption, it shall be unlawful to operate any medical marijuana business in unincorporated Chaffee County without first having obtained a local license under these regulations and a state license under the State Regulations.

(b) *Applications for local licenses.* On and after July 1, 2012, Chaffee County shall begin receiving and processing applications for licensing under these regulations.

(c) *Pre-existing businesses.* Any person who is lawfully engaged in the business of cultivating or manufacturing medical marijuana as permitted by State Regulations and the Chaffee County Land Use Code and Zoning Resolution prior to adoption of these Local Regulations, may continue in business if, on or before August 15, 2012, the person submits an application for local licensing under the Local Regulations. If an application is submitted according to this subsection, the business may continue until such time the state or local licensing application is denied or the state or local license is revoked.



Article 4: Local Licensing Authority.

The Chaffee County Board of County Commissioners (the "Board") shall be the Local Licensing Authority ("Authority").

Article 5: Licenses.

(a) *License Types.* The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: Optional Premises Cultivation Facility license; Infused Products Manufacturing Facility license. The license requirement in the Local Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other law or regulations applicable to the operation of a medical marijuana business. A separate license shall be required from the State as provided by the State Regulations.

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

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

Article 6: Licensing Procedure.

(a) *General Procedure.* The Authority shall consider and act upon all complete local license applications as authorized by the Local Regulations. The Authority shall defer to the State to enforce compliance with the requirements in the State Regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

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

(c) *Concurrent Application.* As provided for under the State Regulations, upon receipt of a local licensing application under Local Regulations, the Authority may request that the state licensing authority conduct a concurrent review of a new license application and that the state advise the Authority of any items it finds that could result in the denial of the license. The



applicant shall be responsible for submitting any required fees and materials directly to the State Licensing Authority under the State Regulations when a request is made. If the Authority receives such a notice from the State, the Authority shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the noted discrepancies have been corrected.

Article 7: Licensing Requirements.

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

- (a) The appropriate application or renewal fee has been paid.
- (b) The applicant has obtained a letter from the Chaffee County Planning Department that states that the use is permitted in the zone district proposed and the owner or operator has obtained all required approvals under the Chaffee County Land Use Code and Zoning Resolution. To obtain such letter, the applicant shall provide a detailed legal description of the precise location and a map showing the following uses in the immediate vicinity: any private or public schools, any licensed child care facility, any drug/alcohol treatment facility, any public park, playground or public lands, including public community centers or publically-owned or maintained building open for use to the general public, any existing residences, or any other sensitive use that may be identified in the Chaffee County Land Use Code or Zoning Resolution, as may be amended from time to time. The map must show the distance of these uses from the proposed location, measured in accordance with the Chaffee County Land Use Code or Zoning Resolution, and must demonstrate that the proposed location meets the required separation distances.
- (c) The applicant has obtained a letter from the Chaffee County Building official that states the building plans and use complies with all applicable building code provisions, subject to obtaining all necessary building permits. To obtain such letter, the applicant shall provide a detailed floor plan layout drawn to scale which clearly reflects the uses, functions, and operations within the building. The plan shall show mechanical functions such as cooling and ventilation systems, filters and discharge systems and locations, heating systems, grow light configurations, wall construction and separation from other occupants, and any other information necessary as determined by the Building official.
- (d) The applicant has submitted a detailed report on the effective mitigation of any odors of the proposed operation or the mitigation and rectification of any past odors reported from the activity.
- (e) Neither Optional Premises Cultivation Facilities nor Infused Products Manufacturing Facilities qualify for agricultural, residential or vacant land classification for purposes of property taxation. Applicant must demonstrate compliance with all property tax

requirements and has obtained and submitted a letter from the Chaffee County Treasurer showing that all property taxes have been paid and no tax liens exist on the property.

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

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

(h) The applicant has obtained and submitted proof that it has not violated any State Regulations or Local Regulations during any previous licensed terms or a detailed description on how the applicant has satisfactorily corrected and mitigated any such past violation.

(i) The applicant has obtained and submitted proof that all State Regulations; including, but not limited to: disclosures related to ownership of the proposed business, fingerprints of the applicants, building plans, and security plans have been satisfied.

(j) The applicant has obtained and submitted any additional materials, as determined to be necessary by the Chaffee County Planning Director, necessary to make a determination under the Local regulations.

(k) No approval shall be granted if the application concerns a location that is the same or within 1000 feet of a location for which, within the two years immediately preceding the date of the application, the Authority denied an application for the same type of approval, due to the nature of the use or other concerns related to the location.

(l) The Authority may, in its discretion, deny approval to any person or entity that has made misrepresentations concerning the business for which the approval is being sought on any of the submittals made with the County. Approval may also be denied to any person or entity who has operated or engaged in the cultivation, manufacture, distribution or sale of medical marijuana in unincorporated Chaffee County since July 1, 2010, without having received approval from the Authority or the State or has failed to comply with the provisions of C.R.S. 2-43.3-103.

(m) The applicant has agreed to release, defend, indemnify and hold harmless Chaffee County, its elected officials, officers, directors, agents and employees from and against any and all losses (including attorneys fees and expenses), claims, demands, suits, actions or proceedings of any kind whatsoever in any way resulting from the processing of the application and has acknowledged that the County has absolutely no financial obligation to any person or entity in connection with the application or conduct of the medical marijuana business.

Article 8: Changes in License.

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

(b) *Change of Location.* Any license granted under these regulations is limited to the location(s) specified on the license application. Operation of an Optional Premises Cultivation Facility and/or Infused Products Manufacturing Facility at a new location requires a new license.

(c) *Modification of premises.* Modification of any building structure where an Optional Premises Cultivation Facility and/or Infused Products Manufacturing Facility is located is subject to all applicable laws and regulations.

Article 9: Term of license; renewal.

Any local license issued under these regulations shall be valid for a period of two years from the date of issuance. Applications for renewals shall be processed in the same manner as new licenses under these regulations. A licensee shall submit a renewal application at least forty-five days before the expiration of the license. Upon denial or revocation of a state license, any license issued under Local Regulations shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates any state or federal law, all licenses issued under these regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Article 10: Violations.

Procedures for suspension or revocation of licenses issued under these regulations, and other fines, sanctions and penalties shall be as provided in the applicable State Regulations and Local Regulations, as may be amended from time to time.

Article 11: Application Fees.

The fee for all local licenses, including facilities which have never obtained a license pursuant to Chaffee County Medical Marijuana Business Licensing Regulations, shall be \$1000. The fees for renewals of facilities previously licensed by Chaffee County shall be \$500. All fees are nonrefundable. Such fees do not include any fees in connection with an expansion of a nonconforming use or any other planning, building, environmental health or other fees for related permits (if applicable). No action may be final until such application and fees have been received by Chaffee County. In addition to the above fees, Chaffee County may charge and the applicant shall pay for any special additional charges and costs incurred by the County with respect to the application such as outside consultant review.

Article 12: Decision and Appeal.



Once the Authority has completed its review of an application, it shall either issue an approval or a denial letter that specifies the reasons for the decision. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial letter, or issue an approval. No additional hearing or appeal rights, including but not limited to such hearings allowed under C.R.S 12-43.3-302, shall be provided to applicants under these Local Regulations.

Article 13: Entitlements.

No person shall have any entitlement or vested right to licensing under these Local Regulations. These Local Regulations, the State Regulations, the Chaffee County Land Use Code and Zoning Resolution and all applicable Building Codes may be changed or amended from time to time. Such changes may preclude the continuance or further issuance of a local license at any given location. As of the date of the enactment of these Local Regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution. Any license given hereunder does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.