

Local Licensing Authority Special Meeting Agenda

**August 5, 2013
City Hall, Council Chambers
749 Main Street
7:00 PM**

- I. Call to Order**
- II. Roll Call**
- III. Approval of Agenda**
- IV. Authority Business**
 - A. Recommendations and Input on an Ordinance Amending Title 5 of the Louisville Municipal Code to Adopt Regulations Regarding Business Licensing and Operational Requirements for Retail Marijuana Establishments
- V. Adjournment**

**SUBJECT: RECOMMENDATIONS AND INPUT ON AN ORDINANCE
AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE
TO ADOPT REGULATIONS REGARDING BUSINESS
LICENSING AND OPERATIONAL REQUIREMENTS
FOR RETAIL MARIJUANA ESTABLISHMENTS**

DATE: AUGUST 5, 2013

PRESENTED BY: CAROL HANSON, AUTHORITY SECRETARY

SUMMARY:

This Special Meeting of the Local Licensing Authority was called during the last regular meeting to allow time for staff to draft local regulations concerning retail marijuana. Staff would like the Authority's input before forwarding to Council.

Attached is the proposed amendment to Title 5 for retail marijuana for Authority review. The proposed changes to Title 17 are attached along with the State Regulations concerning retail marijuana.

Particular items for Authority discussion are:

- Instead of charging an application fee, we will get half of the state fee (\$250 for conversion from Medical, \$2,500 for new)
- The amount of the operating fee and establishing it by resolution (the Local Licensing Authority indicated at the last meeting this should be determined by staff)
- No background checks for employees, just owners and managers – this is how the State regulations are written
- Should there be a required minimum age for employees
- Should building inspections be done before stores open.
- Do we want some way to limit concentration, such as a cap within an area
- Do we want to list anything specific in the prohibited acts section
- Is there a need for some kind of surety bond to guarantee tax payment

RECOMMENDATION:

Authority review and submit their recommendations.

ORDINANCE NO. ____
SERIES 2013

**AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT
REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS
FOR RETAIL MARIJUANA ESTABLISHMENTS**

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution, referred to as Amendment 64, was approved by Colorado voters in November 2012; and

WHEREAS, Amendment 64 legalized the private use of marijuana for persons twenty-one years of age or older; and

WHEREAS, the possession, use, sale, distribution or transportation of marijuana is still a violation of federal law; and

WHEREAS, the Governor on May 28, 2013 signed into law House Bill 13-1317 (HB 13-1317) which provides guidance for local governments to regulate retail marijuana establishments; and

WHEREAS, Amendment 64 and HB 13-1317 outline multiple options for local municipalities from the outright banning of retail marijuana establishments to establishing detailed regulations and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation and, in addition to the authority set forth in Amendment 64, HB 13-1317 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to license and regulate businesses, occupations and establishments, and to otherwise exercise its police powers in the interest of the public health, safety and welfare; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain retail marijuana establishments as permitted land uses and license them with local licensing standards and regulations governing the time, place, manner and number of retail marijuana establishments as authorized in Amendment 64 and HB 13-1317, including without limitation, provisions concerning distance restrictions, restrictions on the size of retail marijuana establishments, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, and standards that retail marijuana establishment owners and employees must satisfy; and

WHEREAS, the Louisville Local Licensing Authority has reviewed the amendments set forth herein and has recommended the City Council approve the amendments to Title 5 of the Louisville Municipal Code set forth in this ordinance; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to establish local regulations governing the location and use of land for retail marijuana establishments; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 5 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 5.11 which shall read in its entirety as follows:

Chapter 5.11
RETAIL MARIJUANA

- Sec. 5.11.010. Purpose; relationship with the Colorado Retail Marijuana Code.**
- Sec. 5.11.020. Definitions.**
- Sec. 5.11.030. Classes of retail marijuana licenses authorized.**
- Sec. 5.11.040. Authorization of the local licensing authority.**
- Sec. 5.11.050. License requirements.**
- Sec. 5.11.060. Screening and response to state license applications.**
- Sec. 5.11.070. Local license procedure**
- Sec. 5.11.080. Location criteria; co-location.**
- Sec. 5.11.090. Persons prohibited as licensees; background checks.**
- Sec. 5.11.100. Duration of license; renewal.**
- Sec. 5.11.110. Annual operating fee.**
- Sec. 5.11.120. Use and display of license.**
- Sec. 5.11.130. Management of licensed premises.**
- Sec.5.11.140. Change in manager; change in financial interest; modification of premises.**
- Sec. 5.11.150. Hours of operation.**
- Sec. 5.11.160. Signage and advertising.**
- Sec. 5.11.170. Security requirements.**
- Sec. 5.11.180. Cultivation and growing.**
- Sec. 5.11.190. Labeling.**
- Sec. 5.11.200. On-site consumption of retail marijuana.**
- Sec. 5.11.210. Prohibited acts.**

Sec. 5.11.220. Visibility of activities; control of emissions.

Sec. 5.11.230. Disposal of marijuana byproducts.

Sec. 5.11.240. Sales and use tax.

Sec. 5.11.250. Inspection of licensed premises.

Sec. 5.11.260. Non-renewal, suspension, or revocation of license.

Sec. 5.11.270. Violations and penalties.

Sec. 5.11.280. No City liability; indemnification.

Sec. 5.11.290. Other laws remain applicable.

Sec. 5.11.300. Severability.

Sec. 5.11.010 Purpose; relationship with the Colorado Retail Marijuana Code.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 16 of the Colorado Constitution while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that retail marijuana establishments be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a retail marijuana establishment might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using retail marijuana establishments in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of retail marijuana establishments.

B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

C. Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, ordinance, rule or regulation, the more restrictive provision shall control.

Sec. 5.11.020. Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 64 means that certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added Section 16 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license, license renewal, or other licensing action pursuant to this chapter. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Retail Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.

Cultivation means the process by which a person grows a marijuana plant.

Division means the Marijuana Enforcement Division.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, or a directorship or officership.

Good cause, for purposes of denying, refusing to renew, suspending or revoking a license, 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 this chapter, any rules promulgated pursuant to this chapter, or any applicable state or local law, rules, or regulations;
- b) the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or
- c) the 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 licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a retail marijuana establishment pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to manufacture, distribute, sell, or test retail marijuana and retail

marijuana products in accordance with this chapter and all applicable laws, rules and regulations.

Local licensing authority means the City of Louisville Local Licensing Authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

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. "Marijuana" 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 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.

Marijuana accessories mean any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that *person* does not include any governmental organization`.

Premises means a distinctly identified, as required by the State Licensing Authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

Public playground means an outdoor area used for play or recreation by children containing recreational equipment such as slides or swings.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, 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 products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell

marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Secretary means the secretary of the local licensing authority or such person's designee.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this state, pursuant to C.R.S. § 12-43.4-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 64, the Colorado Retail Marijuana Code, and the rules and regulations promulgated thereunder, as in effect from time to time, and such definitions are hereby incorporated into this chapter by this reference.

Sec. 5.11.030. Classes of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-402 and any related rules and regulations.

2. A retail marijuana products manufacturing license. A retail marijuana products manufacturing license shall be issued to a person who manufactures retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-404 and any related rules and regulations.

3. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-405 and any related rules and regulations.

Sec. 5.11.040. Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of retail marijuana establishments in the City of Louisville, including without limitation all such powers set forth in this chapter, the Colorado Retail Marijuana Code, and all related rules and regulations, as from time to time amended.

B. The local licensing authority may grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section 5.08.130 of this Code, as from time to time amended.

Sec. 5.11.050. License requirements.

It shall be unlawful for any person to establish or operate a retail marijuana establishment in the city without first having obtained a license for such business from the state and local licensing authorities. Such licenses shall be kept current at all times, and the failure to maintain current licenses shall constitute a violation of this section.

Sec. 5.11.060. Screening and response to state license applications.

A. Upon receipt of an application from the state licensing authority for a retail marijuana license, the secretary of the local licensing authority shall:

1. Initially determine, in consultation with the Planning and Building Safety Department, whether or not the proposed location complies with any and all zoning and land use laws of the city and any and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this chapter. If the secretary makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this Code, the secretary shall notify the state licensing authority in writing that the application is disapproved by the city. The failure of the secretary to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority or the secretary from determining that the proposed license is in violation of any zoning law or other restriction set forth in this Code, and disapprove the issuance of a local license on this basis.

2. For any application that is not disapproved as provided in subsection 1, the secretary shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this chapter, after which the secretary will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

Sec. 5.11.070. Local license procedure.

A. Applications for local licenses shall be made on forms provided by the Division and shall include all materials required by the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder.

B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:

1. name, address, date of birth;
2. a complete set of fingerprints;
3. if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
4. the name and complete address of the proposed retail marijuana establishment;
5. if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
6. a copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
7. evidence of a valid sales tax license for the business;
8. a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entry ways and exits to the retail marijuana establishment, loading zones and all areas in which retail marijuana or

- retail marijuana products will be stored, processed or dispensed;
9. a comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:
 - i. a security plan meeting the requirements of section 5.11.170;
 - ii. a description of all products to be sold;
 - iii. a signage plan that is in compliance with all applicable requirements of Section 5.11.160, this Code and the applicable design standards and guidelines; and
 10. any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority or his or her designee shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The Planning and Building Safety Department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter, Retail Marijuana Code, this chapter, and any applicable state or local rule or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until a state license has been issued and the building in which the business is to be conducted is ready

for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the Planning and Building Safety Department has performed the inspection required by this chapter.

Sec. 5.11.080. Location Criteria.

A. No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located:

1. within one thousand (1,000) feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground;
2. upon any city property;
3. in a dwelling unit or any residentially zoned districts; or
4. within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Administrative Office (A-O), Business Office (B-O), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.

B. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding five thousand (5,000) square feet of leasable floor space, nor shall such licensed premises ever exceed five thousand (5,000) square feet of leasable floor space.

C. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

D. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

F. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana-infused products manufacturing business licensee may also apply to also hold a retail marijuana product manufacturing facility license and operate a dual manufacturing business on the same licensed premises. Persons operating medical marijuana-infused products manufacturing business 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 allow the state and local licensing authorities and City to clearly distinguish the inventories and business transactions of medical marijuana-infused products from retail marijuana products.

2. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the 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 local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and City to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
3. 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. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
4. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

Sec. 5.11.090. Persons prohibited as licensees; background checks.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.4-306 and the rules and regulations promulgated by the State of Colorado.

B. In investigating the qualifications of an applicant, licensee, owner, or manager of a retail marijuana establishment, the local licensing authority shall make a finding and determination as to the good moral character and criminal history of such persons in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. In so doing, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the state licensing authority.

C. The city shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check. If the city

performs the criminal background check, a fee in the amount of One Hundred Dollars (\$100) will be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, and any other persons required to be qualified pursuant to the Colorado Retail Marijuana Code, this chapter, and any related rules and regulations. The local licensing authority may verify any of the information an applicant is required to submit.

Sec. 5.11.100. Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one (1) original of such license for each retail marijuana establishment to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one (1) year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee in the amount of five hundred dollars (\$500.00) to the local licensing authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

D. The local licensing authority may deny a renewal application for good cause pursuant to section 5.11.260.

Sec. 5.11.110. Annual operating fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of the City Council. The annual operating fee may be refunded if the application is denied.

Sec. 5.11.120. Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.11.140.C.

B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the City upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this Chapter 5.11 (including, but not limited to, the location criteria set forth in section 5.11.080), the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

C. Each license shall be continuously posted in a conspicuous location at the licensed premises of the retail marijuana establishment.

Sec. 5.11.130. Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history contrary to the requirements of the Colorado Retail Marijuana Code or any rules or regulations promulgated thereunder.

Sec. 5.11.140. Change in manager; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers to the local licensing authority within seven (7) days after the change.

B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the subject of the license and receive approval prior to any transfer or change pursuant Subsection C. of this Section. A report is required for transfers of capital stock of any corporation regardless of size.

C. For a transfer of ownership, the license holder shall apply to the state and local licensing authorities. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this Chapter 5.11, the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the

transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.4-308.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the state and local licensing authorities. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. Each application for modification of premises shall be accompanied by an application fee in amount established by resolution of the City Council.

Sec. 5.11.150. Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and midnight.

Sec. 5.11.160. Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of title 17 of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder.

Sec. 5.11.170. Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all retail marijuana establishments shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Retail Marijuana Code. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Sec. 5.11.180. Cultivation and growing.

The cultivation and growing of marijuana plants is prohibited within the City of Louisville, except as permitted for non-retail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the City a marijuana cultivation facility.

Sec. 5.11.190. Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

Sec. 5.11.200. On-site consumption of retail marijuana.

The consumption of marijuana or marijuana products on or within the licensed premises of a retail marijuana establishment is prohibited.

Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to violate or fail to comply with any provision of Amendment 64, the Colorado Retail Marijuana Code, any rules and regulations adopted thereunder, or any applicable state or local law, ordinance, rule or regulation.

B. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the Colorado Retail Marijuana Code, and this Code.

Sec. 5.11.220. Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in

accordance with all applicable federal, state and local laws and regulations.

Sec. 5.11.230. Disposal of marijuana byproducts.

The disposal of retail marijuana, byproducts and marijuana accessories shall be done in accordance with the Colorado Retail Marijuana Code and any other applicable state and local laws, ordinances and regulations.

Sec. 5.11.240. Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all retail marijuana, retail marijuana products, marijuana accessories and other tangible personal property sold, dispensed, or purchased at the retail marijuana establishment, in accordance with the requirements of chapter 3.20 of this Code.

There is hereby levied, and there shall be collected and paid, a tax upon the privilege of using, storing, distributing, or otherwise consuming in the city any article of tangible personal property or services purchased, leased or rented from sources outside the city, on which a sales tax has not been paid and as specified in section 3.20.305, and upon rental of storage space within the city. The amount of the tax shall be 3.5 percent of the purchase price thereof.

Sec. 5.11.250. Inspection of books and records and licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where retail marijuana or retail marijuana products are stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business

hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

Sec. 5.11.260. Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

Sec. 5.11.270. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, owner, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

Sec. 5.11.280. No City liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the retail marijuana establishment for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

Sec. 5.11.290 Other laws remain applicable.

A. To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the State or federal government prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Sec. 5.11.300. Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 2. Any person who violates any provision of this ordinance shall be punished by a fine of not more than \$2,650 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 3. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any portion of the Louisville Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2013.

Robert P. Muckle, Mayor

ATTEST:

Nancy Varra, City Clerk

APPROVED AS TO FORM:

Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2013.

Robert P. Muckle, Mayor

ATTEST:

Nancy Varra, City Clerk

DRAFT

ORDINANCE NO. ____
SERIES 2013

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING RETAIL MARIJUANA ESTABLISHMENTS

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution, referred to as Amendment 64, was approved by Colorado voters in November 2012; and

WHEREAS, Amendment 64 legalized the private use of marijuana for persons twenty-one years of age or older; and

WHEREAS, the possession, use, sale, distribution or transportation of marijuana is still a violation of federal law; and

WHEREAS, the Governor on May 28, 2013 signed into law House Bill 13-1317 (HB 13-1317) which provides guidance for local governments to regulate retail marijuana establishments; and

WHEREAS, Amendment 64 and HB 13-1317 outline multiple options for local municipalities from the outright banning of retail marijuana establishments to establishing detailed regulation and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation and, in addition to the authority set forth in Amendment 64, HB 13-1317 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to establish zoning districts and zoning regulations regulating the use of land within the City; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain retail marijuana establishments as permitted land uses and license them with additional local licensing standards and regulations governing the time, place, manner, and number of retail marijuana establishments as authorized by Amendment 64, HB 13-1317, including without limitation provisions concerning such things as distance restrictions, restrictions on the size of retail marijuana establishments, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, and standards that retail marijuana establishment owners and employees must satisfy; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has recommended the City Council approve the amendments to Title 17 of the Louisville Municipal Code set forth in this ordinance; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to establish local regulations governing the location and use of land for retail marijuana establishments; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 17.08 of the Louisville Municipal Code is hereby amended by the addition of new Sections 17.08.406.A. and B, to read as follows:

Sec. 17.08.406.A. Retail marijuana.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment. For the purposes of this section, *marijuana* shall have the meaning set forth in section 5.11.010 of this code.

Sec. 17.08.406.A.(1) Retail marijuana products.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana manufacturing facility.

Sec. 17.08.406.B.(1) Retail marijuana establishment.

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.

Sec. 17.08.406.B.(2) Retail marijuana cultivation facility.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Sec. 17.08.406.B.(3) Retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana

product manufacturing facilities and to retail marijuana stores, but not to consumers.

Sec. 17.08.406.B.(4) Retail marijuana store.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Sec. 17.08.406.B.(5) Retail marijuana testing facility.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Section 2. Section 17.12.030 of the Louisville Municipal Code is hereby amended by the addition of new use groups 52a, 52b, 52c and 52d, to read as follows:

Sec. 17.12.030. Use groups.

Use Groups		Districts															PCZD	MUR	OS	
		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-R R-E R-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I				
52a	Retail Marijuana Store	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
52b	Retail Marijuana Cultivation Facility	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
52c	Retail Marijuana Products Manufacturing Facility	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes		No	No	
52d	Retail Marijuana Testing Facility	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No	

Section 3. Section 17.14.050 of the Louisville Municipal Code is hereby amended by the addition of new use groups to read as follows:

Principal Uses	CC	MU-R
Commercial Use Group		
Retail Marijuana Store	Yes	No
Retail Marijuana Cultivation Facility	No	No

Retail Marijuana Products Manufacturing Facility	No	No
Retail Marijuana Testing Facility	No	No

Section 4. Section 17.16.040 of the Louisville Municipal Code is hereby amended to read as follows: (words added are **bold** and underlined; words deleted are **bold** and ~~stricken through~~):

Sec. 17.16.040 Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; medical marijuana centers; medical marijuana – infused products manufacturers; medical marijuana optional premises cultivation operations; retail marijuana establishments; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 5. Chapter 17.16 of the Louisville Municipal Code is hereby amended by the addition of a new Section 17.16.237, to read as follows:

Sec. 17.16.237 Retail marijuana establishments.

- A. Except for retail marijuana store, retail marijuana products manufacturing facility, and retail marijuana testing facility uses in locations permitted under sections 17.12.030, 17.14.050, 17.72.090 and 5.11.080 and licensed pursuant to chapter 5.11, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any retail marijuana establishments.
- B. No retail marijuana store, retail marijuana products manufacturing facility, or retail marijuana testing facility shall, at the time it is established and first licensed by the city, be located:

1. within one thousand (1,000) feet of: a public or private elementary, middle, junior high, or high school; or a public playground;
 2. upon any city property;
 3. in a dwelling unit or any residentially zoned districts; or
 4. within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Administrative Office (AO), Business Office (BO), Mixed Use (MU-R), Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.
- C. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding five thousand (5,000) square feet of leasable floor space, nor shall such a licensed premises ever exceed five thousand (5,000) square feet of leasable floor space.
- D. No retail marijuana store, retail marijuana products manufacturing facility, or retail marijuana testing facility shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.
- E. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana store, retail marijuana products manufacturing facility, or retail marijuana testing facility is located.

Section 6. Section 17.72.090 of the Louisville Municipal Code is hereby amended by the addition of a new subsection B.21, to read as follows:

21. Retail marijuana stores and retail marijuana testing facilities.

Section 7. Any person who violates any provision of this ordinance shall be punished by a fine of not more than \$2,650 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 8. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 9. The repeal or modification of any portion of the Louisville Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 10. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2013.

Robert P. Muckle, Mayor

ATTEST:

Nancy Varra, City Clerk

APPROVED AS TO FORM:

Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2013.

Robert P. Muckle, Mayor

ATTEST:

Nancy Varra, City Clerk

DRAFT

Colorado

Department of Revenue

Marijuana Enforcement Division

1 CCR 212-2

DRAFT Permanent Rules Related to the
Colorado Retail Marijuana Code

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R 100 Series – General Applicability

Basis and 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 if one is found to be invalid, the remainder will stay in place. This will give the regulated community confidence in the rules even if one is challenged.

R 102 – Severability

If any portion of the rules adopted July 1, 2013 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.

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 and regulations promulgated pursuant to the Retail Code, unless the context requires otherwise:

- A. "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.
- B. "Applicant" means a Person that has submitted an application pursuant to these rules that was accepted by the Division but has not been approved or denied by the State Licensing Authority.
- C. "Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility to a specific Batch of Retail Marijuana.
- D. "Batch" means a specifically identified quantity of processed Retail Marijuana that is uniform in strain and potency, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested during the same cultivation cycle.
- E. "Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.
- F. "CBD" means cannabidiol.
- G. "CBDA" means cannabidiol-acid.
- H. "CBG" means cannabigerol.
- I. "CBN" means cannabinol.
- J. "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 Rule R 1002 *et. seq.*
- K. "Denied Applicant" means any Person whose application for licensure pursuant to the Retail Code has been denied.

- L. "Department" means the Colorado Department of Revenue.
- M. "Director" means the Director of the Marijuana Enforcement Division.
- N. "Division" means the Marijuana Enforcement Division.
- O. "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.
- P. "Exit Package" means a sealed Container or package provided at the retail point of sale, in which any Retail Marijuana or Retail Marijuana Products already within a Container are placed. An Exit Package must be designed to ensure that the contents are secure and are child-proof or child-resistant.
- Q. "Good Cause" for purposes of denial or discipline of a license or permit means:
 1. 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 the Retail Code, or any supplemental relevant state or local law, rule, or regulation;
 2. 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
 3. 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.
- R. "Good Moral Character" means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.
- S. "Identity Statement" means the name of the business as it is commonly known and used in any advertising or marketing materials.
- T. "Label" or "Labeling" means all labels and other written, printed, or graphic matter upon a Container holding Retail Marijuana or a Retail Marijuana Product.
- U. "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.
- V. "Licensee" means any Person licensed pursuant to the Retail Code.
- W. "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.
- X. "Medical Code" means the Colorado Medical Marijuana Code found at sections 12-43.3-101 *et. seq.*, C.R.S.
- Y. "Medical Marijuana Business" means a Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturing Business, or an Optional Premises Cultivation Operation.
- Z. "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.
- AA. "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.

- BB. "Monitoring Company" means a Person in the business of providing Monitoring services for a Retail Marijuana Establishment Licensed Premises.
- CC. "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.
- DD. "Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.
- EE. "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.
- FF. "Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.
- GG. "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, and have an opportunity to gain profit from the operation or sale of the establishment.
- HH. "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that "Person" does not include any governmental organization.
- II. "Retail Code" means the Colorado Retail Marijuana Code found at sections 12-43.4-101 *et. seq.*, C.R.S.
- JJ. "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.
- KK. "Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Product Manufacturing Facilities, and to other Retail Marijuana Cultivation Facilities, but not to consumers, as described in section 12-43.4-403, C.R.S.
- LL. "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.
- MM. "Retail Marijuana Products Manufacturing Facility" means an entity licensed to pursuant to these rules to operate a business as described in section 12-43.4-404, C.R.S.
- NN. "Retail Marijuana Product" means concentrated Retail Marijuana Products and Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- OO. "Retail Marijuana Store" means an entity licensed to pursuant to these rules to operate a business as described in section 12-43.4-402, C.R.S.
- PP. "Retail Marijuana Testing Facility" means an entity licensed to pursuant to these rules to operate a business as described in section 12-43.4-405, C.R.S.
- QQ. "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).

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

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

TT. "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 and Retail Marijuana in this state, pursuant to section 12-43.3-201, C.R.S.

UU. "THC" means tetrahydrocannabinol.

VV. "THCA" means tetrahydrocannabinolic acid.

WW."Universal Symbol" means the image established and made available to Licensees by the Division indicating Retail Marijuana or a Retail Marijuana product is within a Container.

Basis and Purpose – R 104

The statutory authority for this rule exists in sections 12-43.4-201 and 24-4-105(11), 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. The State Licensing Authority intends to adopt these formal positions as rules each year. 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. Any person, municipality, county, or city and county, 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. 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 or local licensing Authority.
 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.
- C. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:
 1. The petitioner failed to properly petition the Division for a statement of position, or if a statement of position was issued, the petition for declaratory order was filed with the State Licensing Authority more than 30 days after statement of position was issued.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.
 3. The petition involves a subject, question or issue which is currently involved in a pending hearing before the state or any local licensing authority, or which is involved in an on-going investigation conducted by the Division, or which is involved in a written complaint previously filed with the State Licensing Authority.
 4. The petition seeks a ruling on a moot or hypothetical question.
 5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.
- D. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall notify the petitioner within 30 days, and the following procedures shall apply:
1. The State Licensing Authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.
 2. In the event the State Licensing Authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, a hearing shall be conducted in conformance with Rules R 1304 – Administrative Hearings, R 1305 – Administrative Subpoenas, and R 1306 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.
 3. The parties to any proceeding pursuant to this rule shall be the Petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.
 4. The declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.
- E. A copy of any petition for a statement of position to the Division and of any petition for a declaratory order to the State Licensing Authority shall be mailed, on the same day that the petition is filed with the Division or authority, to the individual county or municipality within which the petitioner's licensed premises, or premises proposed to be licensed, are located. Any petition filed with the Division or authority shall contain a certification that the mailing requirements of this paragraph have been met.
- F. Files of all petitions, requests, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.
- G. The Division shall post a copy of all statements of positions or declaratory orders constituting final agency action on the Division's web site.

R 200 Series – Licensing

Basis and Purpose – R 201

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 12-43.4-309(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only complete applications for licenses, accompanied with all required fees, will be accepted and processed by the Division.

R 201 – Complete Applications Required: Retail Marijuana Establishments

A. General Requirements

1. All applications for state licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, new business premises, individuals as Owners, transfers of ownership, change of locations, premise modification, and changes in trade name.
2. If required by the forms supplied by the Division, each application shall identify the relevant local jurisdiction.
3. Applicants must submit a complete application to the Division before it will be accepted or considered.
 - a. All applications must be complete in every material detail.
 - b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.
 - c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.
4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.
2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions and any law enforcement agent.

Basis and Purpose – R 202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I) and 12-43.4-304(1), and sections 24-4-104 and 24-76.5-101 *et. seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish basic requirements for all Division applications for new Retail Marijuana Establishment licenses. It helps the regulated community understand the procedural licensing requirements.

R 202 – Process for Issuing a New License: Retail Marijuana Establishments

A. General Requirements

1. All applications for state licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon forms prescribed by the Division. Each application for a new license shall identify the relevant local jurisdiction.
2. All applications for new Retail Marijuana Establishments must include application and licensing fees for each premise. See Rules R 207 - Schedule of Application Fees: Retail Marijuana Establishments and R 208 - Schedule of Business License Fees: Retail Marijuana Establishments.
3. Each Applicant for a new license shall provide:
 - a. Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Division may request;
 - b. All requested information concerning financial and management associations and interests of other Persons in the business;
 - c. Department of Revenue tax payment information;
 - d. Proof of good and sufficient surety bond;
 - e. Accurate floor plans for the premises to be licensed; and
 - f. The deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.

Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary relevant to determining an Applicant's suitability for licensure.

4. Failure to provide such additional evidence by the requested deadline may result in denial of the application.
5. All applications to reinstate a license will be deemed applications for new licenses.

B. Other Factors

1. The Division will either approve or deny a complete application within 90 days of its receipt.
2. The Division will send applications for a new Retail Marijuana Establishment and half the application fee to the relevant local jurisdiction within seven days of receiving the application.
3. If the Division grants a state license before the relevant local jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. Such a condition will not be viewed as a denial

pursuant to the Administrative Procedure Act. If the local jurisdiction fails to approve or denies the application, the state license will be revoked.

4. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing through the relevant local jurisdiction. Should the Applicant fail to obtain local jurisdiction approval or licensing within the specified period, the State license shall expire and may not be renewed.
5. An Applicant is prohibited from operating a Retail Marijuana Establishment prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the relevant local jurisdiction.

Basis and Purpose – R 203

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(I) and section 12-43.4-310, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how licenses can be renewed.

R 203 – Process for Renewing a License: Retail Marijuana Establishments

A. General Process for License Renewal

1. The Division will send a Notice for License Renewal 90 days prior to the expiration of an existing license to the Licensee's mailing address of record.
2. A Licensee may apply for the renewal of an existing license no less than 30 days prior to the license's expiration date. 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 Division accepts the application, then it may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.
3. An application for renewal will only be accepted if it is accompanied by the requisite licensing fees. See Rule R 211 - Schedule of Business License Renewal Fees: Retail Marijuana Establishments.
4. The Division will send a copy of the Licensee's application for renewal of an existing license to the relevant local jurisdiction within seven days of receiving the application for renewal.

B. Failure to Receive a Notice for License Renewal. Failure to receive a Notice for License Renewal does not relieve a Licensee of the obligation to renew all licenses.

C. If License Not Renewed Before Expiration. A license is immediately ineffective upon expiration if the Licensee has not filed a late renewal application and remitted all of the required fees. If a late application is filed by the Licensee and the requisite fees are remitted to the Division within 90 days of expiration of the license, the Division may administratively continue the license until it can complete its renewal application process and investigate the extent to which the Licensee operated with an expired license.

Basis and Purpose – R 204

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-312(1), C.R.S. The purpose of this rule is to clarify what elements the State Licensing Authority considers when determining who has a beneficial interest in a license to such an extent that one is considered an Owner.

R 204 – Factors Considered When Evaluating Ownership of a License: Retail Marijuana Establishments

- A. Licenses Held By Owners. Each Retail Marijuana Establishment License must be held by the Owner or Owners of the licensed establishment. In determining who is the Owner, elements considered in addition to risk of loss and opportunity for profit include but are not limited to:
1. Who is entitled to possession of the Licensed Premise or premise to be licensed;
 2. Who controls the operation of the licensed Retail Marijuana Establishment;
 3. Who guarantees the Retail Marijuana Establishment's debts or production levels;
 4. Who is a beneficiary under the Retail Marijuana Establishment's insurance policies; and
 5. Who acknowledges liability for the Retail Marijuana Establishment's federal, state, or local taxes.
- B. Role of Managers. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Retail Marijuana Establishment license may not be held in the name of the manager.
- C. Spouses. A spouse of a Licensee may hold a license in his or her own right if he or she is the Owner of the licensed establishment, regardless of whether the spouses file separate or joint income tax returns.
- D. Entities. A partnership interest, limited or general, a joint venture interest, a licensing agreement, ownership of a share or shares in a corporation or a limited liability company which is licensed, or having a secured interest in furniture, fixtures, equipment or inventory constitutes ownership and a direct financial interest. Unsecured notes or loans shall constitute an indirect financial interest and it shall be unlawful to fail to completely report all financial interests in each license issued.

Basis and Purpose – R 205

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-309(2), and sections 12-43.4-308 and 24-76.5-101 *et. seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish protocol for ownership transfers.

R 205 – Transfer of Ownership and Changes in Licensed Entities: Retail Marijuana Establishments

- A. General Requirements
1. All applications for transfers of ownership or changes in corporate entities by licensed Retail Marijuana Establishments authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon forms prescribed by the Division. Each application shall identify the relevant local jurisdiction.
 2. All applications for transfers of ownerships and changes in licensed entities by Retail Marijuana Establishments must include application fees and be complete in every material detail.
 3. Each Applicant for a transfer of ownership shall provide suitable evidence of a Person's proof of lawful presence, residence and good character and reputation that the Division may request. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, proof of good and sufficient surety bond and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or

proposed to be licensed. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary relevant to determining an Applicant's suitability for licensure.

4. Failure to provide such additional evidence by the requested deadline may result in denial of the application.

B. As It Relates to Corporations and Limited Liability Companies

1. If the Applicant for any license pursuant the Retail Code is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its principal officers, directors, Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses and Owner's background applications of all Persons owning any of the outstanding or issued capital stock, or of any Persons holding a membership interest.
2. Any proposed transfer of capital stock or any change in principal officers or directors of a corporation shall be reported and approved by the State Licensing Authority and the local jurisdiction prior to such transfer or change.
3. Any proposed transfer of membership interest or any change in members of any limited liability company holding a license shall be reported and approved by the State Licensing Authority and the local jurisdiction prior to such transfer or change.

C. As It Pertains to Partnerships

1. If the Applicant for any license pursuant to this section is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its partners and a copy of its partnership agreement.
2. Any proposed transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported and approved by the State Licensing Authority and local jurisdiction prior to such transfer or change.

D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., *et. seq.*, shall not be required to file a transfer of ownership application pursuant to section 12-43.4-308, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, prior to the date of the conversion, the Licensee shall submit the names, mailing addresses, and Owner's background forms of any new officers, directors, general or managing partners, and all Persons having an ownership interest.

E. Approval Required. No change shall be effective as it pertains to any Licensee, until and unless the proposed transfer of ownership has been approved by the State Licensing Authority and relevant local jurisdiction.

F. Applications for Transfers Deemed New Applications. All applications for a transfer of ownership for a license requiring reinstatement will be deemed applications for new licenses pursuant to section 12-43.4-304, C.R.S.

Basis and Purpose – R 206

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), and 12-43.4-202(3)(a)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify the application process for changing location of a Licensed Premise.

R 206 – Changing Location of Licensed Premise: Retail Marijuana Establishments

A. Application Required to Change Location of Licensed Premise

1. An authorized representative of a licensed Retail Marijuana Establishment must make application to the Division for permission to change location of its premises.
2. Such application shall:
 - a. Be made upon forms prescribed by the Division;
 - b. Be complete in every material detail and include remittance of all applicable fees;
 - c. Explain the reason for requesting such change;
 - d. Be supported by evidence that the application complies with any local jurisdiction requirements; and
 - e. Contain a report of the relevant local jurisdictions in which the Retail Marijuana Establishment is to be situated; which report shall demonstrate the approval of the local jurisdictions with respect to the new location.

B. Permit Required Before Changing Location

1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.
2. The permit 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 a Retail Marijuana Establishment at the former location. For Good Cause shown, the 120 day deadline may be extended for an additional 90 days.
3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.
4. No change of location will be allowed except to another place within the same city, town, county or city and county in which the license as originally issued was to be exercised.

Basis and Purpose – R 207

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-104(1)(a)(I) and 12-43.4-202(3)(a)(II), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to clarify the schedules of application fees for new retail business Licensees.

R 207 – Schedule of Application Fees: Retail Marijuana Establishments

A. \$500 Fee

1. A Person licensed pursuant to the Medical Code, section 12-43.3-401, C.R.S., shall pay a \$500 application fee, for each application submitted, to operate a Retail Marijuana Establishment if the following are met:
 - a. The Licensee is operating; and

- b. The Licensee's license is in good standing. A license in good standing has complied consistently with Article XVIII, Section 14 of the Colorado Constitution, the provisions of the Medical Code, and regulations adopted thereto.
- 2. A Person who had a pending application with the State Licensing Authority for a license pursuant to the Medical Code prior to December 10, 2012, shall pay a \$500 application fee to operate a Retail Marijuana Establishment if the following are met:
 - a. The Applicant is operating in compliance with the Medical Code and regulations adopted thereto;
 - b. The application has not been denied; and
 - c. The Person has paid all applicable application and licensing fees prior to December 10, 2012.
- B. \$5000 Fee. Applicants that do not meet the criteria in Part A. of this rule are required to pay a \$5000 application fee that must be submitted with each application before it will be considered.
- C. When Application Fees Are Due. All application fees are due at the time an application is submitted. An Applicant must follow Division policies regarding payment to local jurisdictions.
- D. Renewal Application Fees. Renewal application fees shall be established following review of initial cost of regulation.

Basis and Purpose – R 208

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(II) and section 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 208 – Schedule of Business License Fees: Retail Marijuana Establishments

- A. License Fees. The State Licensing Authority intends to utilize the same license and application fee structure for both Medical Marijuana and Retail Marijuana in the short term. The State Licensing Authority intends to revisit the fee structure next year when application and licensing processes and procedures are in place and workload data is known. Applicants will begin filing Notice of Intent in January and February, which will drive workload and costs for the Division. The State Licensing Authority plans to analyze different fee setting models to determine the most appropriate model.
 - 1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License – \$3,750.00
 - 2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License – \$8,750.00
 - 3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License – \$14,000.00
 - 4. Retail Marijuana Cultivation Facility License – \$2,750.00
 - 5. Retail Marijuana Products Manufacturing License – \$2,750.00
 - 6. Retail Marijuana Testing Facility License – \$2,750.00
- B. When License Fees Are Due. All license fees are due at the time an application is submitted.

- C. If Application is Denied. If an application is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – R 209

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(II) and sections 12-43.4-304(1) and 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments

- A. License Renewal Fees. The State Licensing Authority intends to utilize the same license and application fee structure for both Medical Marijuana and Retail Marijuana in the short term. The State Licensing Authority intends to revisit the fee structure next year when application and licensing processes and procedures are in place and workload data is known. Applicants will begin filing Notice of Intent in January and February, which will drive workload and costs for the Division. The State Licensing Authority plans to analyze different fee setting models to determine the most appropriate model.
1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License – \$3,750.00
 2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License – \$8,750.00
 3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License – \$14,000.00
 4. Retail Marijuana Cultivation Facility License – \$2,750.00
 5. Retail Marijuana Products Manufacturing License – \$2,750.00
 6. Retail Marijuana Testing Facility License – \$2,750.00
- B. When License Fees Are Due. License renewal fees are due at the time the renewal application is submitted.
- C. If Renewal Application is Denied. If an application for renewal is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – R 230

R 230 – Complete Applications Required: Individuals

- A. General Requirements
1. All applications for state licenses authorized pursuant to subsection 12-43.4-401(1)(e), C.R.S., shall be made upon forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, individuals as Owners and transfers of ownership.
 2. A license issued by the Division to Owners and occupational Licensees constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. Applicants must submit a complete application to the Division before it will be accepted or considered.
 - a. All applications must be complete in every material detail.
 - b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.
 - c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.
4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.
2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions and any law enforcement agent.

Basis and Purpose – R 231

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(III), and section 12-43.4-306, and section 24-76.5-101 *et. seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is clarify the qualifications for licensure, including, but not limited to, the requirement for a fingerprint-based criminal history record check for all Owners, officers managers, contractors, employees, and other support staff of licensed entities. The State Licensing Authority hereby finds that immediate adoption of this rule is imperatively necessary to comply with state law and that compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

R 231 – Qualifications for Licensure: Individuals

A. General Requirements

1. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

2. The Division may deny the application of an Applicant who fails to provide the requested evidence or information by the Division deadline.

B. Other Licensing Requirements

1. Fingerprints Required

- a. All Applicants for initial licensure shall be fingerprinted for a fingerprint-based criminal history record check.
- b. A renewal Applicant shall be fingerprinted at the Director's discretion.
- c. An Applicant shall also be fingerprinted if the Director has required the Applicant to submit a new application. The Director may require a new application for the following non-exhaustive list of reasons:
 - i. An Applicant is re-applying after more than one year since the expiration of his or her most recent license;
 - ii. If an Applicant's previous license was denied or revoked by the State Licensing Authority; or
 - iii. When the Division needs additional information in order to proceed with a background investigation.

2. Other Documents May Be Required. Any Applicant may be required to establish his or her identity and age by a certified birth certificate and other valid identification containing a photograph as required for a determination of lawful presence.

3. Maintaining Ongoing Suitability For Licensing: Duty to Report Offenses. An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such Person within ten days of such Person's arrest, felony summons, or conviction. Failure to make proper notification to the Division may be grounds for disciplinary action. Licensees shall cooperate in any investigation conducted by the Division.

4. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an Applicant for license shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.

C. Owners. An Owner Applicant must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;
2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;
3. The Applicant is not employing, assisted by, or financed in whole or in part by any other Person whose criminal history indicates that he or she is not of Good Moral Character;
4. The Applicant is at least 21 years of age;
5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment;

6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;
7. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a Person if the Person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied for a license;
8. The Applicant can establish that he or she does not employ another Person at a Retail Marijuana Establishment who has not submitted fingerprints for a criminal history record check or whose criminal record history check reveals that Person is ineligible;
9. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;
10. The Applicant can establish that it is not currently licensed as a retail food establishment or wholesale food registrant;
11. The Applicant has been a resident of Colorado for at least two years prior to the date of the Application. *See Rule R 232 – Factors Considered When Determining Residency: Individuals.*

D. Occupational Licenses. An occupational license Applicant must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;
2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;
3. The Applicant is at least 21 years of age;
4. An Applicant can establish that he or she is currently a resident of Colorado.
5. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;
6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a Person if the Person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied for a license;
7. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

E. Current Medical Marijuana Occupational Licensees

1. An individual that holds a current, valid medical marijuana occupational license may also work in a Retail Marijuana Establishment; no separate occupational license is required.

2. An individual that holds a current, valid Retail Marijuana occupational license shall not work at a Medical Marijuana Business unless they also hold a valid medical marijuana occupational license.

Basis and Purpose – R 232

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-306(1)(k), and 12-43.4-309(5), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Retail Code.

R 232 – Factors Considered When Determining Residency: Individuals

This rule applies to individual Applicants who are trying to obtain Retail Marijuana Establishment licenses. This rule does not apply to patrons of Retail Marijuana Stores. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

1. Primary Home Defined. The location of an Applicant's principal or primary home or place of abode ("primary home") may establish Colorado residency. An Applicant's primary home is that home or place in which a Person's habitation is fixed and to which the Person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or mobile home. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.
2. Reliable Indicators That an Applicant's Primary Home is in Colorado. The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a Person's primary home is in Colorado.
 - a. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of Personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;
 - b. Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and
 - c. Other types of reliable evidence.
3. Totality of the Evidence. The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a Person's primary home will not necessarily be determinative.
4. Other Considerations for Residency. The State Licensing Authority may consider the following circumstances:
 - a. Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their spouses;
 - b. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and
 - c. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time under the rules or policy of the educational institution he or she is attending.

5. Entering Armed Forces Does Not Terminate Residency. An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the Person entered military service and the Person's spouse are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long.

Basis and Purpose – R 233

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-401(1)(e), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a licensed Retail Marijuana Establishment. The rule also sets for the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

R 233 – Occupational Licenses and Vendor Registrations Required

A. Occupational Licenses and Identification Badges

1. A Person shall not be employed by, or under contract with, a licensed Retail Marijuana Establishment to perform any work, employment, or any other task, without first obtaining a valid occupational license and a valid identification badge from the Division.
2. An individual must obtain an occupational license and identification badge if:
 - a. The individual performs job functions directly related to the possession, cultivation, dispensing, selling, serving, or delivering of marijuana as permitted by law at a licensed Retail Marijuana Establishment;
 - b. The individual has authority to enter Limited Access Area(s) at a licensed Retail Marijuana Establishment; or
 - c. The individual transports any Retail Marijuana or Retail Marijuana Product(s) between any Licensed Premises in compliance with all applicable laws and regulations.

B. Occupational Licenses and Identification Badges

1. A Person shall not be employed by, or under contract with, a licensed Retail Marijuana Establishment to perform any work, employment, or any other task, without first obtaining a valid occupational license and a valid identification badge from the Division.
2. An individual must obtain an occupational license and identification badge if:
 - a. The individual performs job functions directly related to the possession, cultivation, dispensing, selling, serving, or delivering of marijuana as permitted by law at a licensed Retail Marijuana Establishment;
 - b. The individual has authority to enter Limited Access Area(s) at a licensed Retail Marijuana Establishment; or
 - c. The individual transports any Retail Marijuana or Retail Marijuana Product(s) between any Licensed Premises in compliance with all applicable laws and regulations.

C. Occupational Licenses and Identification Badges

1. A Person who must obtain a vendor registration shall not be employed by, or under contract with, a licensed Retail Marijuana Establishment prior to obtaining the registration.
2. An individual must obtain a vendor registration if:
 - a. The individual performs other practices or duties in or for the operations of the Retail Marijuana Establishment Licensee; and
 - b. While the individual must conduct him or herself professionally, he or she has no decision-making authority for the Retail Marijuana Establishment Licensee; and
 - c. While performing the practices or duties in or for the operations of the Retail Marijuana Establishment Licensee, the individual falls under the supervision of an occupational employee or Owner.
3. An example of one that must obtain a vendor registration may be a security system contractor.

D. Occupational Licensees and Registered Vendors

1. Any Person required to be licensed pursuant to this rule shall obtain all Division approvals before commencing activities permitted by the occupational license or vendor registration.
2. *See also* Rule R 231 – Qualifications for Licensure: Individuals.

E. To Whom This Rule Applies

1. This rule applies to any Person who is employed or contracted to perform activities directly related to the possession, cultivation, dispensing, selling, serving, or delivering of marijuana as permitted by law.
2. By way of example, employment or contracts for services such as advertising, legal, or emergency HVAC shall not be governed by this rule.

- F. Licenses Are Property of State Licensing Authority. All licenses shall remain the property of the State Licensing Authority and shall be returned to the Division upon demand of the State Licensing Authority or the Division.

Basis and Purpose – R 250

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 24-4-105(2), and 12-43.4-601(2), C.R.S. The purpose of this rule is to clarify that a Licensee must keep its mailing address current with the Division.

R 250 – Licensee Required to Keep Mailing Address Current with the Division: All Licensees

- A. 30 Days. A Licensee shall inform the Division in writing of any change to its mailing address within 30 days of the change. The Division will not change a Licensee’s information without explicit written notification provided by the Licensee or its authorized agent.
- B. Division Communications. Division communications are sent to the last mailing address furnished by a Licensee to the Division.
- C. Failure to Change Address Does Not Relieve Licensee’s Obligation. Failure to notify the Division of a change of mailing address does not relieve a Licensee of the obligation to respond to a Division communication.

- D. Disciplinary Communications. The State Licensing Authority will send any disciplinary or sanction communication, as well as any notice of hearing, to the mailing address contained in the license and, if different, to the last mailing address furnished to the Division by the Licensee.

Basis and Purpose – R 251

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), and 12-43.4-202(3)(a)(XVI) and sections 24-4-104 and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(I). The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

R 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.
2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of suitability and the Applicant does not furnish such evidence by the date requested, the Applicant may be denied.

B. Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the Division during the entire Application process.
2. If an Applicant provides inaccurate information to the Division, the Applicant may be denied.

C. Grounds for Denial

1. The State Licensing Authority will deny an Applicant that forms a business or nonprofit, including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of transporting, cultivating, processing, transferring, or distributing marijuana or marijuana products without receiving prior approval from all relevant licensing authorities.
2. The State Licensing Authority will deny an application for Good Cause, as defined in subsection 12-43.4-305(1), C.R.S., of the Retail Code.
3. The State Licensing Authority will deny an Applicant that is statutorily disqualified from holding a license.

D. Voluntary Withdrawal of Application

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application for licensing in lieu of a denial proceeding.
2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. Applicants will submit the notice with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.
3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.
4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. An Applicant May Appeal a Denial

1. An Applicant may appeal a denial pursuant to the Administrative Procedure Act.
2. *See also* Rules R 1304 – Administrative Hearings, R 1305 – Administrative Subpoenas, and R 1306 – Administrative Hearing Appeals.

R 300 Series – The Licensed Premises

Basis and Purpose – R 301

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b) and section 12-43.4-105, C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only Persons licensed by the State Licensing Authority.

R 301 – Limited Access Areas

- A. Proper Display of License Badge. All Persons in a Limited Access Area as provided for in section 12-43.4-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.
- B. Visitors in Limited Access Areas. Prior to entering a Limited Access Area, all outside vendors, contractors or visitors must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area. Visitors shall be escorted by Licensee personnel at all times. The Licensee shall maintain a log of all visitor activity and shall make such logs available for inspection by the state or local licensing authorities.
- C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premise shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Owners, Employees, and Contractors Only".
- D. Diagram for Licensing Authorities. All Limited Access Areas shall be clearly identified to state or local licensing authorities and described by the filing of a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all propagation, cultivation, manufacturing, and retail sales areas.
- E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas shall be approved by state or local licensing authorities. See Rule R 303 – Changing, Altering, or Modifying Licensed Premises.
- F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from local jurisdictions or law enforcement from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – R 302

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-307(1)(b), C.R.S. The purpose of this rule is to establish or clarify the means by which the Licensee has lawful possession of the Licensed Premises.

R 302 – Possession of Licensed Premises

- A. Evidence of Lawful Possession. Persons licensed pursuant to sections 12-43.4-402, 12-43.4-403, 12-43.4-404, or 12-43.4-405, C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to licensing authorities.
- B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units

within a building structure without first filing a change of location application and obtaining approval from the State Licensing Authority and local jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without the filing of an application to modify the Licensed Premises on forms prepared by the State Licensing Authority, to include any applicable processing fee.

- C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the state and local licensing authority.

Basis and Purpose – R 303

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 establish guidelines for changing, altering or modifying the Licensed Premises.

R 303 – Changing, Altering, or Modifying Licensed Premises

- A. Application Required to Alter or Modify Premises. After issuance of a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that materially or substantially alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the prior written approval of both the state and local licensing authorities. The Licensee whose premises are to be materially or substantially changed is responsible for filing an application for approval on forms prepared by the State Licensing Authority.
- B. What Constitutes a Material Change. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:
 - 1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;
 - 2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, or sale of Retail Marijuana or Retail Marijuana Products within the Licensed Premises;
 - 3. Within a Retail Marijuana Store, the permanent addition of a separate sales counter that creates an additional point-of-sale location, and the permanent addition of a display case, all of which would require the installation of additional video surveillance cameras;
 - 4. The installation or replacement of electric fixtures or equipment, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities; or
 - 5. The addition or deletion of retail cultivation facility licenses that will be, or have been, combined with other commonly owned cultivation licenses in a common area for the purpose of growing and cultivating Retail Marijuana.
- C. Attachments to Application. The State Licensing Authority and relevant local jurisdiction shall grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee, and payment of any applicable fee, with documents that verify the following:
 - 1. The Licensee will continue to have possession of the premises, as changed, by ownership, lease, or rental agreement; and
 - 2. That the proposed change conforms to any local restrictions related to the time, manner, and place of Retail Marijuana Establishment regulation.

3. If permission to change, alter, or modify the Licensed Premises is denied, the State Licensing Authority shall give notice in writing and shall state grounds upon which the application was denied. The Licensee shall be entitled to a hearing on the denial if a request in writing is made to the State Licensing Authority within 60 days after the date of notice.

Basis and Purpose – R 304

The statutory authority for this rule is found at subsections 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), C.R.S. The purpose of this rule is to establish guidelines for the manner in which a medical marijuana Licensee may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a medical marijuana operation from Retail Marijuana Establishment operation.

R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

1. A Medical Marijuana Business licensed pursuant to the Medical Code may, in compliance with these rules, share its existing Licensed Premises with a licensed Retail Marijuana Establishment, if the relevant local jurisdiction permits a dual operation at the same location.
2. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share their Licensed Premises in order to operate a dual cultivation business operation.
3. A Medical Marijuana-Infused Products Manufacturing Business Licensee may also apply to also hold a Retail Marijuana Product Manufacturing Facility License and operate a dual manufacturing business on the same licensed premises.
4. A Medical Marijuana Center that does not authorize patients under the age of 21 years to be on the premises, may also hold a Retail Marijuana Store license and operate a dual retail business operation on the same licensed premises.
5. 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. The two shall not be co-located in this instance and shall maintain distinctly separate Licensed Premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. Persons operating medical and retail cultivation operations shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record keeping for the business operations and Labeling of products must allow the State Licensing Authority and local jurisdictions to clearly distinguish the inventories and business transactions of medical marijuana from Retail Marijuana.
2. Manufacturing Operations. Persons operating Medical Marijuana-Infused Products Manufacturing Business 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 allow the State Licensing Authority and local jurisdictions to clearly distinguish the inventories and business transactions of medical marijuana-infused products from Retail Marijuana Products.
3. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that specifically 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 may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the State Licensing Authority and local jurisdictions to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from Retail Marijuana and Retail Marijuana Products. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores shall be considered a license violation affecting public safety.

4. 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 premises.
5. Clear Separation of Inventory. A Person who 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 and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the products can be reconciled to a particular Medical Marijuana Center or designated for retail sale.

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 Products 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

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows. The Security Alarm Systems and lock standards contained in this rule shall apply to all licensed Retail Marijuana Establishments where marijuana is possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.
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. *See also* Rule R 301 – Limited Access Area.
4. The Licensees shall maintain records on the Licensed Premise 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.
5. Upon request or otherwise, Licensees shall make available to agents of the state or local licensing authority or other state or local law enforcement agency all information related to Security Alarm Systems, Monitoring, and alarm activity.
6. Any outdoor retail cultivation facility premises, or greenhouse cultivation, must meet all of the requirements for Security Alarm Systems described in this rule.

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 lock.

2. Any outdoor retail cultivation facility premises, 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), 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 Products 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.

1. The video surveillance requirements contained in this rule shall apply to all licensed Retail Marijuana Establishments where marijuana is possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.
2. Prior to the issuance of any state license, Applicants must install fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this section.
3. All video surveillance records and recordings must be stored in a secure area that is only accessible to Licensee's management staff.
4. Video surveillance records and recordings must be made available upon request to the State Licensing Authority, 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.
5. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the State Licensing Authority, except that the State Licensing Authority 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 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.

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/egress to Limited Access Areas, and all points of ingress/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 have a Retail Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress/egress points to flowering areas remain constantly illuminated for recording purposes.
6. Areas where Retail Marijuana is grown, cured, or manufactured 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, transportation preparation, 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 for any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

1. The surveillance room or surveillance area is 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 State Licensing Authority and relevant local jurisdiction, state or local law enforcement agencies, 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 meets or exceeds all standards for on-site Monitoring.
5. Each Retail Marijuana Licensed Premises located in a common or shared building 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 the section apply to the review station.

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

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 easily be accessed for viewing by state and local licensing authorities and law enforcement. 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, upon request, 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. The date and time must be synchronized with any point-of-sale system.
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. Only after the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to disposal, sale or transfer of the facility or business to another Licensee or manufacturer, or if discarded 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.
7. Surveillance recordings and color still photos must be made available to the state and local licensing authorities or any local law enforcement agency acting on behalf of the local jurisdiction, upon request and without unreasonable delay.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At 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.

Basis and Purpose – R 307

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XI), C.R.S. The purpose of this rule is to establish sanitary requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after those used in the Colorado Department Revenue's Medical Marijuana Rules.

R 307 – Waste Disposal

- A. All Applicable Laws Apply. Retail Marijuana and Retail Marijuana Product waste must be stored, secured and managed in accordance with all applicable state and local statutes, regulations, ordinance or other requirements.

- B. Liquid Waste. Liquid waste from marijuana facilities shall be disposed of in compliance the applicable Water Quality Control Division statutes and regulations.
- C. Waste Must Be Made Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste must be made unusable and unrecognizable as marijuana prior to leaving the Licensed Premises.
- D. Methods to Make Waste Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste shall be rendered unusable and unrecognizable as marijuana through one of the following methods:
 - 1. Grinding and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste:
 - a. Paper waste;
 - b. Plastic waste;
 - c. Cardboard waste;
 - d. Food waste;
 - e. Grease or other compostable oil waste;
 - f. Bokashi, or other compost activators;
 - g. Other wastes approved by the State Licensing Authority that will render the Retail Marijuana waste unusable and unrecognizable as marijuana; and
 - h. Soil.
 - 2. Incorporating the Retail Marijuana waste with non-consumable, recyclable solid wastes listed below:
 - a. Grease or other compostable oil waste;
 - b. Bokashi, or other compost activators; and
 - c. Other wastes approved by the State Licensing Authority that will make the Retail Marijuana waste unusable and unrecognizable as marijuana.
- E. After Waste is Made Unusable and Unrecognizable. After the Retail Marijuana waste is made unusable and unrecognizable as marijuana, then the rendered waste shall be:
 - 1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body;
 - 2. Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment; or
 - 3. Composted on-site at a facility owned by the generator of the waste and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) in the Department of Public Health and Environment.
 - 4. Licensees shall not dispose of Retail Marijuana waste in an unsecured waste receptacle not in possession and control of the Licensee.

R 400 Series – Retail Marijuana Store

Basis and Purpose – R 401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-402(1)(a), 12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-309(7)(a), and 12-43.4-901(4)(f), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Store to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

R 401 – Retail Marijuana Store: License Privileges

- A. Privileges Granted. A Retail Marijuana Store Licensee shall only exercise those privileges granted to it by the State Licensing Authority.
- B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. However, to the extent authorized by Rule R 304 – Shared Premises and Operational Separation, a Retail Marijuana Store Licensee may share a location with Medical Marijuana Center Licensee as long as the specific requirements and conditions, as prescribed in Rule R 304, are met.
- C. Authorized Sources of Retail Marijuana Inventory. A Retail Marijuana Store Licensee may sell Retail Marijuana that it has purchased from any Person holding a retail cultivation facility license; or, that the retailer has cultivated itself, after first obtaining a retail cultivation facility license. See Rule R 501 – Retail Marijuana Cultivation Facility: License Privileges.
- D. Authorized Sources of Retail Marijuana Products Inventory. A Retail Marijuana Store Licensee may sell Retail Marijuana Products that it has purchased from a Person holding a Retail Marijuana Products manufacturing license, so long as such products are pre-packaged and Labeled upon purchase from the manufacturer.
- E. Samples Provided for Testing. A Retail Marijuana Store Licensee may provide samples of its products for testing and research purposes to a Person holding a Retail Marijuana Testing Facility license for testing purposes. The Retail Marijuana Store shall maintain the testing results as part of its business books and records.

Basis and Purpose – R 402

The statutory authority for this rule is found at subsections 12-43.4-105, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(IX), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c)(II), 12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 12-43.4-402(7)(a), 12-43.4-402(7)(b), 12-43.4-402(7)(c), 12-43.4-402(9); 12-43.4-901(1), and 12-43.4-901(4), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts

- A. Temporary Wholesale Sales and Purchase Limitation. From January 1, 2014 to September 30, 2014, a Retail Marijuana Store Licensee shall only sell Retail Marijuana that was grown in its commonly-owned Retail Marijuana Cultivation Facility and subsequently purchased or transferred from the cultivation, with the following exceptions:
 - 1. Purchase Restriction. A Retail Marijuana Store Licensee may purchase not more than 30% of its total on-hand Retail Marijuana inventory, in aggregate, from other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.

2. **Sales Restriction.** A Retail Marijuana Store Licensee may sell not more than 30% of its total on-hand Retail Marijuana inventory, in aggregate, to other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the sale.
 3. On the occasion where a Licensee experiences a catastrophic event, the Licensee may petition the Director for a waiver to exceed the limits mandated in this section.
- B. **Sales to Persons Under 21 Years.** A Retail Marijuana Store Licensee or its employees are prohibited from selling, giving, or distributing Retail Marijuana or Retail Marijuana Products to Persons under 21 years of age
 - C. **Age Verification.** Prior to initiating the sale of Retail Marijuana or Retail Marijuana Products, a Licensee or its employee must verify that the purchaser has a valid government-issued proof of picture identification showing that the purchaser is 21 years of age or older.
 - D. **Quantity Limitations On Sales.** A Retail Marijuana Store Licensee and its employees are prohibited from selling more than one ounce of marijuana or its equivalent in Retail Marijuana Products during a single sales transaction to a Colorado resident. A Retail Marijuana Store Licensee and its employees are prohibited from selling more than a quarter ounce of Retail Marijuana or its equivalent in Retail Marijuana Products during a single sales transaction to a Person who does not have a valid government issued picture identification card showing that the Person is a resident of the state of Colorado.
 - E. **Sales over the Internet.** A Retail Marijuana Store Licensee is prohibited from selling, or soliciting or receiving an order for, Retail Marijuana or Retail Marijuana Products over the internet. All sales and transfers of possession of Retail Marijuana and Retail Marijuana Products must occur within the Retail Marijuana Store's Licensed Premises.
 - F. **Evidence of Excise Tax Paid.** If an excise tax on Retail Marijuana is approved by voters in the 2013 general election a Retail Marijuana Store Licensee is prohibited from accepting Retail Marijuana from licensed Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility unless the Retail Marijuana Store Licensee has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S. was paid.
 - G. **Prohibited Items.** A Retail Marijuana Store Licensee is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Products.
 - H. **Nicotine or Alcohol Prohibited.** A Retail Marijuana Store Licensee is prohibited from selling Retail Marijuana or Retail Marijuana Products that contain nicotine or alcohol if the sale of the alcohol would require a license pursuant to Article 46 or 47 of Title 12, C.R.S.
 - I. **Consumption Prohibited.** A Retail Marijuana Store Licensee and its employees shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the Licensed Premises.
 - J. **Storage and Display Limitations.** A Retail Marijuana Store Licensee shall not display Retail Marijuana and Retail Marijuana Products outside of a designated Restricted Area. Storage of Retail Marijuana and Retail Marijuana Products shall otherwise be maintained in Limited Access Areas.

Basis and Purpose – R 403

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VI), and 12-43.4-202(3)(a)(IX), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a licensed Retail Marijuana Store must control and safeguard access to certain areas where marijuana and marijuana products will be sold to the general public and prevent the diversion of marijuana and marijuana products to people under 21 years of age.

R 403 – Point of Sale: Restricted Area

- A. Identification of Restricted Area. All areas where Retail Marijuana or Retail Marijuana Products are sold, possessed for sale, displayed or dispensed for sale shall be identified as a Restricted Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Area – No One Under 21 Years of Age Allowed."
- B. Customers in Restricted Area. The restricted area must be supervised by a licensed Owner or licensed employee at all times when customers are present to ensure that only Persons who are 21 years of age or older are present. When allowing customers access to restricted areas licensed Owners and licensed employees shall make reasonable efforts to limit the number of customers compared to the number of licensed Owners or employees in the restricted area.
- C. Display of Retail Marijuana. The display of Retail Marijuana and Retail Marijuana Products for sale is allowed only in Restricted Areas. Any product displays that are readily accessible to the customer must be supervised by the Licensee or licensed employees at all times when customers are present.

Basis and Purpose – R 404

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(b)(VII) and 12-43.4-402(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V). The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of marijuana or marijuana products.

R 404 – Acceptable Forms of Identification for Retail Sales

- A. Valid Identification to Verify Age Only. Licensees shall refuse the sale of Retail Marijuana or Retail Marijuana Products to anyone, unless such Person can produce a form of valid identification of 21 years of age. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following identification, so long as such identification is valid and not expired:
 1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory;
 2. An identification card, issued by any state for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2- 303, C.R.S.;
 3. A United States military identification card;
 4. A passport; or
 5. Enrollment card issued by the governing authority of a federally recognized Indian tribe located in the state of Colorado, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2- 303, C.R.S.
 6. See paragraph C of this rule for valid identification to verify Colorado residency.
- B. Affirmative Defense and Licensee's Burden. It shall be an affirmative defense to any administrative action brought against a Licensee for alleged sale to a minor if the minor presented fraudulent identification of the type established in paragraph A above and the Licensee possessed an identification book issued within the past three years, which contained a sample of the specific kind of identification presented for compliance purposes. As an affirmative defense, the burden of proof is on the Licensee to establish by a preponderance of the evidence that the minor presented fraudulent identification.
- C. Valid Identification to Verify Colorado Residency. Licensees shall refuse the sale of more than one quarter of an ounce of Retail Marijuana or its equivalent in Retail Marijuana Products to anyone, unless such Person can produce a form of valid identification

of Colorado residency. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate to establish Colorado residency for purchase shall be limited to the following:

1. Valid state of Colorado driver's license;
2. Valid state of Colorado identification card; or
3. Any other valid government-issued picture identification that demonstrates that the holder of the identification is a Colorado resident.
4. No combination of identification or documents may be used to establish residency.

Basis and Purpose – R 405

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-402(1)(e), C.R.S. The purpose of this rule is to establish the Retail Marijuana Store Licensees' obligation to account for and track all inventories on the Licensed Premises from the point they are transferred from a Retail Marijuana Cultivation Facility or retail products manufacturer to the point of sale. Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority.

R 405 – Retail Marijuana Store: Marijuana Inventory Tracking System

- A. Minimum Tracking Requirement. Licensed Retail Marijuana Stores must establish tracking methods to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Product manufacturer to the point of sale. A Retail Marijuana Store must have the ability to reconcile its inventory records with the associated transaction history and/or sale receipts. *See also* Rule R 901 – Business Records Required.
- B. Additional Rulemaking Likely – Inventory Tracking System. The State Licensing Authority intends to engage in additional rulemaking to establish additional inventory tracking system requirements including, but not limited to, the use of any peripheral components, such as Radio-Frequency Identification Devices ("RFID") that are developed and maintained by the State Licensing Authority. Reporting requirements may include the entry of purchases of Retail Marijuana and Retail Marijuana Products, inventory levels, and point-of-sale data that is not specific to individual consumers.

Basis and Purpose – R 406

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(X), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Stores. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Establishments. Further, the State Licensing Authority intends to consult with the Colorado Department of Public Health and Environment to develop Health and Safety regulation and/or standards for the industry.

R 406 – Health and Safety Regulations: Retail Marijuana Store

- B. Local Safety Inspections. Licensees may be subject to inspection of the Retail Marijuana Store by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.
- A. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop the health and safety standards applicable to Retail Marijuana Stores after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

R 500 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – R 501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-403(1), and 12-43.4-403(5), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Cultivation Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 501 – Retail Marijuana Cultivation Facility: License Privileges

- A. Privileges Granted. A Retail Marijuana Cultivation Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. However, to the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share a location with a commonly-owned Optional Premises Cultivation Operation.
- C. Cultivation of Retail Marijuana Authorized. A Retail Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, and label Retail Marijuana, whether in concentrated form or otherwise.
- D. Licensees Authorized for Sale. A Person licensed as a Retail Marijuana Cultivation Facility may sell Retail Marijuana that it cultivates to a Person holding a Retail Marijuana Store license, to Retail Marijuana Products manufacturing facilities, and to other Retail Marijuana Cultivation Facilities, subject to the temporary limitations set forth in Rules R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts and R 502 – Retail Marijuana Cultivation Facilities: General Limitations or Prohibited Acts.
- E. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide samples of its Retail Marijuana to a Person holding a Retail Marijuana Testing Facility license for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records.

Basis and Purpose – R 502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-403(2)(a), 12-43.4-403(2)(b), 12-43.4-403(2)(c), 12-43.4-403(3), 12-43.4-403(6), and 12-43.3-901(2)(a), and section 12-43.4-404, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Cultivation Facility.

R 502 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

- A. Temporary Limitations
 - 1. Issuance of Cultivation Licenses. From January 1, 2014 to September 30, 2014, a Retail Marijuana Cultivation Facility license shall only be issued to a Person who has been issued a Retail Marijuana Store license or a Retail Marijuana Products manufacturing facility license.
 - 2. Temporary Sales Limitation. From January 1, 2014 to September 30, 2014, any Retail Marijuana that is grown in a licensed Retail Marijuana Cultivation Facility must be sold or transferred to its commonly-owned Retail Marijuana Store or Retail Marijuana Products manufacturing facility, or another of its commonly-owned Retail Marijuana Cultivation Facilities. Except that, a Retail Marijuana Cultivation Facility Licensee may sell not more than 30% of its processed and

finished Retail Marijuana inventory to other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.

- B. Packaging and Labeling Standards Required. A Person licensed as a Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana that is not properly packaged and Labeled. See Rules R 1001 – Packaging Requirements: General Requirements and R 1002 – Labeling Requirements: General Requirements.
- C. Sale to Consumer Prohibited. A Person licensed as a Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana to a consumer.
- D. Consumption Prohibited. A Person licensed as a Retail Marijuana Cultivation Facility shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the premises of a Retail Marijuana Cultivation Facility.
- E. Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S. and shall provide verification to purchasers of the Retail Marijuana that the excise tax was paid.

Basis and Purpose – R 503

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-403(4), C.R.S. The purpose of this rule is to establish the Retail Marijuana Cultivation Facilities Licensees' obligation to account for and track all inventories on the Licensed Premises from seed or cutting to transfer or sale to other Retail Marijuana Establishments. Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority.

R 503 – Retail Marijuana Products Cultivation: Marijuana Inventory Tracking System

- A. Minimum Tracking Requirement. Licensed Retail Marijuana Cultivation Facilities must establish a tracking system to ensure its inventories are tracked from the point it is propagated from seed or cutting to the point when it is delivered to a Retail Marijuana Establishment in accordance with the Retail Code. Upon request by the Division, Licensees shall produce documentation evidencing all inbound marijuana raw materials acquired by the Licensee, its on-hand Retail Marijuana inventory, and all outbound Retail Marijuana transferred by the Licensee. Licensees must have the ability to reconcile its inventories and maintain accurate weight measurements of marijuana harvested and packaged. See Rule R 901 – Business Records Required.
- B. Additional Rulemaking Likely – Inventory Tracking System. The State Licensing Authority intends to engage in additional rulemaking to establish additional inventory tracking system requirements including, but not limited to, the use of any peripheral components, such as Radio-Frequency Identification Devices ("RFID") that are developed and maintained by the State Licensing Authority. Reporting requirements may include the entry of purchases of Retail Marijuana and Retail Marijuana Products, inventory levels, and point-of-sale data that is not specific to individual consumers.

Basis and Purpose – R 504

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for cultivation facilities of Retail Marijuana. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Establishments. Further, the State Licensing Authority intends to consult with the Colorado Department of Public Health and Environment to develop Health and Safety regulation and/or standards for the industry.

R 504 – Health and Safety Regulations: Retail Marijuana Cultivation Facility

- A. Local Safety Inspections. Licensees may be subject to inspection of the cultivation area by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.
- B. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop the health and safety standards applicable to cultivation facilities after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

R 600 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – R 601

The statutory authority for this rule is found at subsections 12-43.4-306(1)(j), 12-43.4-309(7)(a), 12-43.4-404(1)(a), 12-43.4-404(1)(b), and 12-43.4-404(6), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Products Manufacturing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 601 – Retail Marijuana Products Manufacturing Facility: License Privileges

- A. Privileges Granted. A Retail Marijuana Products Manufacturing Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. However, to the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturing Facility may share a location with a commonly-owned Medical Marijuana-Infused Products Manufacturing Business.
- C. Licensees Authorized for Sale. A Person licensed as a Retail Marijuana Products Manufacturing Facility may sell Retail Marijuana Products of its own manufacture to Persons holding a Retail Marijuana Store license and to other Retail Marijuana Products Manufacturing Facilities.
- D. Manufacture of Retail Marijuana Products Authorized. A Retail Marijuana Products Manufacturing Facility may manufacture, prepare, package, and Label Retail Marijuana Products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.
- E. Location Prohibited. A Retail Marijuana Products Manufacturing Facility may not manufacture, prepare, package, or label Retail Marijuana Products in a location that is operating as a retail food establishment or a wholesale food registrant.
- F. Samples Provided for Testing. A Retail Marijuana Products Manufacturing Facility may provide samples of its Retail Marijuana Products to a Person holding a Retail Marijuana Testing Facility license for testing and research purposes. The Retail Marijuana Products Manufacturing Facility shall maintain the testing results as part of its business books and records.

Basis and Purpose – R 602

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII)(K), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(c)(V), 12-43.4-309(7)(a), 12-43.4-404(1)(c)(I), 12-43.4-404(1)(d), 12-43.4-404(1)(e)(I), 12-43.4-404(4), 12-43.4-404(5), 12-43.4-404(9), and 12-43.3-901(2)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a licensed Retail Marijuana Products manufacturing facility.

R 602 – Retail Marijuana Products Manufacturing: General Limitations or Prohibited Acts

- A. Temporary Sales Limitation. From January 1, 2014 to September 30, 2014, a Retail Marijuana Products manufacturing facility shall not sell any of the Retail Marijuana that was cultivated in its commonly-owned Retail Marijuana Cultivation Facility to any other Retail Marijuana Establishment. Such Retail Marijuana shall be used solely in Retail Marijuana Products produced by the manufacturer.

- B. Packaging and Labeling Standards Required. A Person licensed as a Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana Products that are not properly sealed and Labeled. *See R 1000 Series – Labeling, Packaging, and Product Safety.*
- C. THC Content Container Restriction. Each product Container of an Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See Rule R 1004 – Labeling Requirements: Specific Requirements, Edible Retail Marijuana Products.*
- D. Sale to Consumer Prohibited. A Person licensed as a Retail Marijuana Products manufacturing facility is prohibited from selling Retail Marijuana or Retail Marijuana Products to a consumer.
- E. Consumption Prohibited. A Retail Marijuana Products Manufacturing Facility Licensee shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the premises of a Retail Marijuana Product manufacturing facility.
- F. Evidence of Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Products Manufacturing Facility is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility Licensee unless the manufacturer has received evidence that any applicable excise tax due pursuant to Article 28.8 or Title 39, C.R.S., was paid.
- G. Adequate Care of Perishable Products. A Retail Marijuana Products manufacturing facility must provide adequate refrigeration for perishable Retail Marijuana Products that will be consumed and shall utilize adequate storage facilities and transportation methods.

Basis and Purpose – R 603

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-404 (1)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the Retail Marijuana Product manufacturing facilities Licensees' obligation to account for and track all inventories from the point it is either transferred from the Retail Marijuana Cultivation Facility or the point when it is delivered to the Retail Marijuana Products manufacturer from a licensed Retail Marijuana Cultivation Facility to the point of transfer to a licensed Retail Marijuana Store. Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority.

R 603 – Retail Marijuana Products Manufacturer: Marijuana Inventory Tracking System

- A. Minimum Tracking Requirement
 1. A licensed Retail Marijuana Product manufacturing facility must establish a tracking system to ensure its Retail Marijuana inventory is tracked from the point it is transferred from a Retail Marijuana Cultivation Facility until the time it becomes a Retail Marijuana Product.
 2. A licensed Retail Marijuana Product manufacturing facility must also establish a tracking system to ensure its Retail Marijuana Products are tracked from the time of production until it is transferred and delivered to a license Retail Marijuana Store.
 3. Upon request by the Division, Licensee shall produce documentation evidencing all inbound marijuana raw materials acquired by the Licensee and used in the manufacturing process, and the ability to track all outbound marijuana products produced at the facility. Licensees must have the ability to reconcile its inventories and maintain accurate weight measurements of marijuana used in the manufacturing process and quantities of Retail Marijuana Products produced at the facility. *See Rule R 901.*
- B. Additional Rulemaking Likely – Inventory Tracking System. The State Licensing Authority intends to engage in additional rulemaking to establish additional inventory tracking system requirements including, but not limited to, the use of any peripheral components, such as Radio-Frequency Identification Devices ("RFID") that are developed and maintained by the State Licensing

Authority. Reporting requirements may include the entry of purchases of Retail Marijuana and Retail Marijuana Products, inventory levels, and point-of-sale data that is not specific to individual consumers.

Basis and Purpose – R 604

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for the product manufacturing facilities of Retail Marijuana. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses. Further, the State Licensing Authority intends to consult with the Colorado Department of Public Health and Environment to develop Health and Safety regulation and/or standards for the industry.

R 604 – Health and Safety Regulations: Retail Marijuana Products Manufacturing Facility

- A. General Standards. Retail Marijuana Product manufacturing facilities shall comply with the sanitary requirements as prescribed pursuant to this rule. Further, Retail Marijuana Product manufacturers shall comply with current good manufacturing practice guidelines establish by the Colorado Department of Public Health and Environment pursuant to regulation 6 CCR 1010-21.
- B. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop the health and safety standards applicable to manufacturing facilities after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

Basis and Purpose – R 605

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XI), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule sets forth basic sanitary requirements for Retail Marijuana Products manufacturing facilities. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and customers. The State Licensing Authority modeled this rule after those used in the Colorado Department Revenue's Medical Marijuana Rules and those used by the Colorado Department of Public Health and Environment.

R 605 – Sanitary Requirements

General Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any Person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Retail Marijuana or Retail Marijuana Products shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;
2. That all Persons working in direct contact with preparation of Retail Marijuana or Retail Marijuana Products shall conform to hygienic practices while on duty, including:
 - a. Maintaining adequate Personal cleanliness;
 - b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;
 - c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility and/or in Retail Marijuana Products

preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and

- d. Refraining from having direct contact with preparation of Retail Marijuana or Retail Marijuana Products if the Person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
3. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Retail Marijuana or Retail Marijuana Products;
4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Products are exposed;
5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;
6. That there is adequate safety-type lighting in all areas where Retail Marijuana or Retail Marijuana Products are processed or stored and where equipment or utensils are cleaned;
7. That the facility provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;
8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;
9. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana or Retail Marijuana Products, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environment Protection Agency shall be used in Retail Marijuana Products manufacturing facilities and used in accordance with Labeled instructions;
10. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Products;
11. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be from a water source that is capable of providing a safe, potable and adequate supply of water to meet the facility's needs;
12. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;
13. That each Retail Marijuana Products manufacturing facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;
14. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Products shall be conducted in accordance with adequate sanitation principles;
15. That Retail Marijuana or Retail Marijuana Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

16. That storage and transportation of finished Retail Marijuana Products shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any Container.

R 700 Series – Retail Marijuana Testing Facilities

Basis and Purpose – R 701

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-309(7)(a), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Testing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 701 – Retail Marijuana Testing Facility: License Privileges

- A. Privileges Granted. A Retail Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location and only those privileges granted by the authority may be exercised on such premises.
- C. Testing of Retail Marijuana and Retail Marijuana Products Authorized. A Retail Marijuana Testing Facility may accept samples of Retail Marijuana or Retail Marijuana Products from Retail Marijuana Establishments for testing and research purposes only. The Division may require a Licensee to submit a sample of Retail Marijuana or Retail Marijuana Products to a Retail Marijuana Testing Facility upon demand.
- D. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Products, but is not authorized to engage in the manufacturing privileges described in section 12-43.4-404, C.R.S. and Rule R 601 – Retail Marijuana Manufacturing Facilities: License Privileges.
- E. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop the health and safety standards applicable to testing facilities, including analyzing the safety and potency of Retail Marijuana and Retail Marijuana Products, after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

Basis and Purpose – R 702

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-405(3), and 12-43.3-901(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Testing Facility.

R 702 –Retail Marijuana Testing Facility: General Limitations or Prohibited Acts

- A. Prohibited Financial Interest. A Person who has an interest in a Retail Marijuana Testing Facility license shall not have any interest in any medical marijuana business licensed pursuant to the Medical Code or in any Retail Marijuana Establishment licensed pursuant to the Retail Code.
- B. Sale of Retail Marijuana Prohibited. A Person licensed as a Retail Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana or Retail Marijuana Products.
- C. Destruction Of Received Retail Marijuana. A Retail Marijuana Testing Facility shall dispose of all Retail Marijuana and Retail Marijuana Products it receives after all necessary tests have been conducted. Under no circumstances may a Retail Marijuana Testing Facility transfer Retail Marijuana to any other licensed entity or consumer. See Rule R 307 – Waste Disposal.

- D. Consumption Prohibited. A Retail Marijuana Testing Facility Licensee shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the Licensed Premises.

Basis and Purpose – R 703

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana testing facilities. The Executive Director of the Department of Public Health and Environment shall provide the State Licensing Authority the standards for licensing laboratories. The State Licensing Authority intends to use the standards provided by the Department of Public Health and Environment in promulgating rules for the regulation of Retail Marijuana testing facilities.

R 703 –Retail Marijuana Testing Facilities – Acceptable Testing and Research Practices

- A. General Standards. All Retail Marijuana Establishment Licensees are required to test Retail Marijuana or Retail Marijuana Products to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure sufficient and correct Labeling.
- B. Testing Requirements. Testing shall include, but is not limited to, an analysis for the following:
1. Residual solvents;
 2. Poisons or Toxins;
 3. Harmful Chemicals;
 4. Dangerous Molds, Mildew or Filth;
 5. Harmful Microbials, such as E. Coli or Salmonella and Pesticides; and
 6. THC and other Cannabinoid potency.
- D. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop the health and safety standards applicable to testing facilities, including acceptable testing and research standards and standard laboratory protocol and practices, after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

R 800 Series – Transportation and Storage

Basis and Purpose – R 801

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c)(IV), 12-43.4-202(3)(a)(X), 12-43.4-309(4), and 12-43.4-401(1), C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the delivery of Retail Marijuana and Retail Marijuana Products between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

R 801 – Transportation of Retail Marijuana and Retail Marijuana Products

- A. Transportation Authorized. This rule provides for the manner in which Retail Marijuana and Retail Marijuana Products shall be transported between locations that are licensed pursuant to the Retail Code. Nothing herein authorizes the delivery of Retail Marijuana or Retail Marijuana Products to or from locations not so licensed, but shall not preclude delivery to a location that also holds a license for medical marijuana pursuant to the Medical Code, so long as such delivery does not contravene any section within the Medical Code or the Retail Code or any rules promulgated thereto, and inventories are properly separated and tracked.
- B. Persons Authorized to Transport. The only Persons authorized to transport Retail Marijuana or Retail Marijuana Products are those licensed by, or registered with, the State Licensing Authority pursuant to section 12-43.4-401, C.R.S.; including, those holding Retail Marijuana Establishment licenses and employees who hold valid occupational licenses pursuant to the same section; and, independent operators, contractors, and their support staff, when licensed or registered pursuant to the Retail Code.
- C. Transport Between Licensed Premises. Retail Marijuana and Retail Marijuana Products shall only be transported between Licensed Premises and between Licensed Premises and storage warehouses that have received a permit from the State Licensing Authority. Licensees transporting Retail Marijuana and Retail Marijuana Products are responsible for ensuring that the product is secured at all times during transport.
- D. Pre-numbered Transportation Manifest Required. Transport of Retail Marijuana or Retail Marijuana Products shall be accompanied by a pre-numbered manifest that contains information required by this rule and shall be in the format prepared by the State Licensing Authority. A transport from an originating location may have multiple destination locations so long as the manifest reflects the specific inventory destined for specific licensed locations.
- E. Motor Vehicle Required. Transport of Retail Marijuana and Retail Marijuana Products shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee.
- F. Documents Required During Transport. Transportation of Retail Marijuana or Retail Marijuana Products shall be accompanied by a copy of the originating Licensee's business license, the driver's valid occupational license or registration, the driver's valid motor vehicle operator's license, and all required vehicle registration information.
- G. Use of Colorado Roadways. State law does not prohibit the transportation of Retail Marijuana and Retail Marijuana Products on any public road within the state of Colorado as authorized in this Rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county that are related to the transportation of Retail Marijuana or Retail Marijuana Products.
- H. Preparation of Retail Marijuana and Retail Marijuana Products for Transport
 - 1. Final Weighing and Packaging. Each Licensee shall comply with the specific rules associated with the final weighing and packaging of Retail Marijuana inventory and Retail Marijuana Products inventory before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

2. Preparation in Limited Access Area. Retail Marijuana and Retail Marijuana Products shall be prepared for transport in a Limited Access Area, including the packing and Labeling of Shipping Containers.
3. Shipping Containers. Sealed packages or containers may be placed in larger Shipping Containers, so long as such Shipping Containers are labeled with type and amount of Retail Marijuana or Retail Marijuana Products contained therein. The contents of Shipping Containers shall be easily accessed and inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement officials when necessary.

I. Creation of Records and Inventory Tracking

1. Use of Pre-numbered Manifest. Licensees who transport Retail Marijuana or Retail Marijuana Products shall create a pre-numbered transportation manifest to reflect inventory that leaves the Licensed Premises for destination to other licensed locations. The manifest may either reflect all deliveries for multiple locations within a single trip, or may reflect each single delivery. In either case, no inventory shall be transported without a pre-numbered manifest.
2. Copy of Manifest to Receiver. Licensees shall provide a copy of the manifest to each Licensee receiving the inventory described in the manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate pre-numbered manifest for each receiving Licensee.
3. The pre-numbered transportation manifest shall include the following:
 - a. Departure date and approximate time of departure;
 - b. Name, location address, and license number of the originating Licensee;
 - c. Name, location address, and license number of the destination Licensee(s);
 - d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);
 - e. Arrival date and estimated time of arrival;
 - f. Delivery vehicle make and model and license plate number; and
 - g. Name, occupational license number, and signature of the Person transporting.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, Licensees shall be responsible for the procedures associated with the tracking of inventory that is transported between Licensed Premises. See Rule R 901 – Business Records Required.

1. Responsibilities of Originating Licensee. Prior to departure, the originating Licensee shall adjust its inventory records to reflect the removal of Retail Marijuana or Retail Marijuana Products. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the pre-numbered travel manifest and shall be easily reconciled, by product name and quantity, with the applicable manifest.
2. Responsibilities of Receiving Licensee. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana or Retail Marijuana Products received are as described in the transportation manifest and shall immediately adjust its inventory records to reflect the receipt of inventory. The scale used to weigh product being received shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the pre-numbered travel manifest and shall be easily reconciled, by product name and quantity, with the applicable manifest.

3. Discrepancies. Receiving Licensees shall separately document any difference between the quantity specified in the manifest and the quantities received and shall immediately report any difference to an investigator or employee of the State Licensing Authority.

Basis and Purpose – R 802

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-701(2), C.R.S. The purpose of this rule is to establish that Retail Marijuana or Retail Marijuana Products may not be stored outside of Licensed Premises unless the Licensee obtains a Warehouse Storage Permit.

R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Products

- A. Warehouse Storage Permit Authorized. A Licensee may only store Retail Marijuana or Retail Marijuana Products in its Licensed Premises or in its one permitted warehouse storage facility.
- B. Limited Access Area. A permitted warehouse storage facility shall be considered a Limited Access Area.
- C. Limitation on Inventory to be Stored. The Licensee may only have upon the permitted warehouse storage facility Retail Marijuana or Retail Marijuana Products that are part of its finished goods inventory. The Licensee may not share the premises with other Licensees nor store inventory belonging to other Licensees.
- D. Sales Restriction. A Licensee may not sell Retail Marijuana or Retail Marijuana Products to a consumer within the permitted warehouse storage facility.
- E. Display of Warehouse Storage Permit. The warehouse storage facility permit must be displayed in a prominent place within the permitted warehouse storage facility.
- F. Notice to Local Jurisdiction.
 1. Within seven days of receipt of a warehouse storage facility permit from the Division, the receiving Licensee must provide a copy to the relevant local jurisdiction designated by the location where the permitted warehouse storage facility is situated.
 2. No Retail Marijuana may be stored within a permitted storage facility until the relevant local jurisdiction has been provided a copy of the warehouse storage facility permit.
- G. Security in Storage Facility. A permitted warehouse storage facility must meet all video and security requirements applicable to Licensed Premises.
- H. Transport to a Permitted Warehouse Storage Facility. Licensees must comply with the provisions of Rule R801 when transporting any Retail Marijuana to a permitted warehouse storage facility.
- I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, Licensees shall establish tracking methods to ensure its inventories are identified and tracked from the point of transfer from the Licensed Premises to the point of delivery to a permitted warehouse storage facility. *See Rule R 901 – Business Records Required.*
- J. Adequate Care of Perishable Products. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Products that will be consumed and shall utilize adequate storage facilities and transportation methods.

R 900 Series – Business Records and Reporting

Basis and Purpose – R 901

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), and section 12-43.4-310, C.R.S. This rule explains what business records a Licensee must maintain. It also clarifies that such records must be made available on demand to the Division. The State Licensing Authority shall require that Licensees maintain their own business records and make them available upon request by the Division.

R 901 – Business Records Required

A. General Requirements

1. A Retail Marijuana Establishment Licensee must maintain the information required in this rule in a format that is readily understood by a reasonably prudent business person.
2. Each Licensee shall retain all books and records necessary to show fully the business transactions of such Licensee for the preceding three years (the current license year and the two prior license years).
 - a. On premises records: The Retail Marijuana Establishment's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times.
 - b. On- or off-premise records: books and records associated with older periods may be archived on or off of the Licensed Premises, but must be available for review without unreasonable delay when requested by the State Licensing Authority.
3. The books and records must fully show the transactions of the business and must include, but shall not be limited to:
 - a. Current Employee List – This list must provide the full name and occupational license number including non-employee Owners, who work at a Retail Marijuana Establishment.
 - b. Secure Facility Information – For each business location, a Licensee must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.
 - c. All records normally retained for tax purposes.

B. Violation Affecting Public Safety. Violation of this rule shall constitute a license violation affecting public safety.

C. Records Related to Inventory Tracking. Retail Marijuana Establishment Licensees must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer.

D. Records Related to Transportation.

1. Retail Marijuana Establishment Licensees must maintain adequate records of all transport activities related to Retail Marijuana and Retail Marijuana Products.
2. A hard copy of the transportation manifest shall be carried at all times with the Retail Marijuana and Retail Marijuana Products being transported.
3. *See also* Rule R 801 – Transportation of Retail Marijuana and Retail Marijuana Products.

- E. Result of Failure to Provide Any Requested Record to the Division On Demand. A Retail Marijuana Establishment Licensee, and any of its agents and employees, must provide access to on-premise records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premise records within three business days following a request from the Division.

Basis and Purpose – R 902

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XIII), C.R.S. All Retail Marijuana Establishment Licensees must collect and remit sales tax on all retail sales made pursuant to the licensing activities. This rule clarifies when such taxes must be remitted to the Colorado Department of Revenue.

R 902 – Reporting and Transmittal of Taxes

- A. Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.
- B. Excise and Retail Marijuana Sales Tax Returns Required. If an excise and an additional sales tax on Retail Marijuana are approved by voters in the 2013 general election, a Retail Marijuana Establishment shall remit any applicable tax returns and payments due pursuant to Article 28.8 of Title 39, C.R.S.

Basis and Purpose – R 903

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), C.R.S. The Retail Code mandates that Licensees must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Licensee's refusal to cooperate or pay for the audit.

R 903 – Independent Audit May Be Required

- A. State Licensing Authority May Require Independent Audit
 - 1. The State Licensing Authority may require a Retail Marijuana Establishment Licensee to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures.
 - 2. In such instances, the State Licensing Authority and the Licensee may mutually agree upon the selection of the independent accountant. The independent accountant shall be a certified public accountant licensed by and in good standing with the Colorado State Board of Accountancy.
 - 3. The Licensee will be responsible for all direct costs associated with the independent audit.
- B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:
 - 1. A Licensee does not provide requested records to the Division;
 - 2. The Division has reason to believe that the Licensee does not properly maintain its business records;

3. A Licensee has a prior violation related to recordkeeping or inventory control;
 4. A Licensee has a prior violation related to diversion.
 5. The scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.
- C. Compliance required. A Licensee must pay for and cooperate with the State Licensing Authority's requirement that it undergo an audit in accordance with this rule.

R 1000 Series – Labeling, Packaging, and Products Safety

Basis and Purpose – R 1001

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.3-202(3)(c)(III), C.R.S. Extensive Labeling and secure packaging of Retail Marijuana and Retail Marijuana Products is of statewide concern. A purpose of this rule, and the rules in this series, is to ensure that all Retail Marijuana and Retail Marijuana Products are sold and delivered to lawful consumers in packaging that is not easily opened by children. This rule also clarifies packaging and Labeling terms that will be used throughout this rule and rules in the same series to ensure that Coloradoans are adequately informed. Other graphic identifies will ensure that the Colorado Retail Marijuana and Retail Marijuana Products are easily and readily detectable if they are diverted out of state, and easily tracked back to the retailer, grower or manufacturer.

R 1001 – Packaging Requirements: General Requirements

- A. Retail Marijuana – General Packaging Requirement for Childproof Packaging. The sale of retail marijuana is prohibited unless previously placed within a Container by a Retail Marijuana Store. If a Licensee does not place the Container within an Exit Package, the Container must be designed to ensure that the contents are secure and are child-proof or child-resistant.
- B. Retail Marijuana Product – General Packaging Requirement for Childproof Packaging. The sale of a retail marijuana product is prohibited unless previously placed within a Container by a Retail Marijuana Products Manufacturing Facility. The Container must be designed to ensure that the contents are secure and be child-proof or child-resistant.
- C. Additional Regulation Likely: The State Licensing Authority anticipates that it will further develop these packaging rules, after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

Basis and Purpose – R 1002

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VII), 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 that the Labeling on each Container of Retail Marijuana or a Retail Marijuana Product includes necessary and relevant information for consumers does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable.

R 1002 – Labeling Requirements: General Requirements

- A. Labeling Required. All Retail Marijuana and Retail Marijuana Products sold, transferred, or otherwise provided to a consumer must be in a Container that is Labeled with all required information, see Rules R 1003 – Labeling Requirements: Specific Requirements, Retail Marijuana and Retail Marijuana Products and R 1004 – Labeling Requirements: Specific Requirements, Edible Retail Marijuana Products, and that specifically excludes certain text. For compliance with this rule, it is insufficient to affix required Labeling to an Exit Package.
- B. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.
- C. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.
- D. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.
- E. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple Labels to a Container, provided that none of the information required by these rules is completely obstructed.

- F. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop these Labeling rules, after consultation with the Colorado Department of Public Health and Environment and other interested stakeholders to ensure that the public health and safety is protected.

Basis and Purpose – R 1003

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VII), 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 that each Container of Retail Marijuana includes necessary and relevant Labeling information for consumers.

R 1003 – Labeling Requirements: Specific Requirements, Retail Marijuana and Retail Marijuana Products

A. Retail Marijuana Container Labeling Must Include the Following Information:

1. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Cultivation Facilities where the Retail Marijuana within the Container was grown.
2. The license number of the Retail Marijuana Store that sold the Retail Marijuana to the consumer.
3. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request.
4. The Batch Number or numbers assigned by the Retail Marijuana Cultivation Facility to the marijuana plant or plants from which the Retail Marijuana contained within the Container was harvested.
5. The date of sale to the consumer.
6. The net weight, in grams, of the Retail Marijuana prior to its placement in the Container.
7. The following warning statements:
 - a. "There may be health risks associated with the consumption of this product."
 - b. "This product is intended for use by adults 21 years and older. Keep out of the reach of children."
 - c. "This product is unlawful outside the State of Colorado."
8. A Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch.
9. A Cannabinoid potency profile that must list, at minimum, the concentration of THC, THCA, CBD, CBDA, CBN, and CBG as a percentage of the total weight of the product.
10. The amount, in milligrams, of THC in each gram of the Retail Marijuana.
11. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana contained within the Container.
12. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate.

B. Retail Marijuana Products Container Labeling Must Include the Following Information:

1. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Cultivation Facilities where the Retail Marijuana used to manufacture the Retail Marijuana Product within the Container was grown;
2. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product the consumer;
3. The license number of the Retail Marijuana Products manufacturer that manufactured the Retail Marijuana Product;
4. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;
5. The Batch Number or numbers assigned by the Retail Marijuana Cultivation Facility to the marijuana plant or plants from which the Retail Marijuana used to manufacture the Retail Marijuana Product contained within the Container was harvested;
6. The date of sale to the consumer;
7. The following warning statements:
 - a. "There may be health risks associated with the consumption of this product."
 - b. "This product is intended for use by adults 21 years and older. Keep out of the reach of children."
 - c. "This product is unlawful outside the State of Colorado."
 - d. "This product is infused with Retail Marijuana."
 - e. "This product was produced without regulatory oversight for health, safety, or efficacy."
 - f. "The intoxicating effects of this product may be delayed by two or more hours."
8. A Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;
9. A clear set of instructions for proper usage;
10. A Cannabinoid potency profile that must list, at minimum, the concentration of THC, THCA, CBD, CBDA, CBN, and CBG as a percentage of the total weight of the product;
11. The amount, in milligrams, of THC in each gram of the Retail Marijuana used in the Retail Marijuana Product;
12. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana contained within the Container; and
13. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate used in the manufacture of the Retail Marijuana Product.

Basis and Purpose – R 1004

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(c)(V) and 12-43.4-202(3)(c)(VI), 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 that each Container of an Edible Retail Marijuana Product includes necessary and relevant information for consumers.

R 1004 – Labeling Requirements: Specific Requirements, Edible Retail Marijuana Products

- A. THC Information Statement. The following consumer information statement: “The standardized serving size amount for this product that does not contain more than ten milligrams of active THC. This Container includes ____ servings.”
- B. Ingredient List. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which may include a list of any potential allergens contained within, or used in the manufacture of, the Retail Marijuana Product.
- C. Statement Regarding Refrigeration. A statement that the Retail Marijuana Product, if perishable, must be refrigerated.
- D. Statement of Expiration Date. A product expiration date, for perishable Retail Marijuana Products, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a Label with a use-by or expiration date has been affixed to a Container of a Retail Marijuana Product, a Licensee shall not alter that date or affix a new Label with a later use-by or expiration date.
- E. Label May Be Affixed. A Licensee may, but is not required to, affix a Label to each Container of an Edible Retail Marijuana Product that provides the following information:
 - 1. A statement regarding the Retail Marijuana Product’s compatibility with dietary restrictions; and
 - 2. A nutritional fact panel that, if included, must be based on the number of THC servings within the Container.

R 1100 Series – Signage, Marketing, and Advertising

[Publisher's Notice: This Rule adoption does not impact the emergency Rule adoption of June 5, 2013 (Rule R 1101 – Magazine Sales)]

Basis and Purpose – R 1102

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(I), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that Licensees are not permitted to make false or misleading statements.

R 1102 – General Requirement: False and Misleading Statements

A Licensee shall not make any false or misleading statements in any marketing or advertising materials, nor make any false or misleading statements on any product or document provided to a consumer.

Basis and Purpose – R 1110

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the upcoming process for establishing signage, marketing and advertising regulations.

R 1110 – Signage, Marketing, and Advertising: General

On May 28, 2013, Governor Hickenlooper signed into law House Bill 13-1317, which includes subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S., and requires the State Licensing Authority, on or before July 1, 2013, to adopt regulations applicable to licensed Retail Marijuana Establishments on the subject of signage, marketing, and advertising of Retail Marijuana, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors.

To develop appropriate and legally sound regulations on this subject, it is necessary to have a public rulemaking hearing at which interested Persons may submit written data, views, or arguments. Further, the State Licensing Authority wishes to seek the assistance of the Colorado Department of Public Health and Environment regarding such rules as authorized by subsection 12-43.4-202(3)(c), C.R.S. In connection with permanent rulemaking proceedings, the State Licensing Authority will consider all data, views and arguments, as well as any input from the Colorado Department of Public Health and Environment, and will determine signage, marketing, and advertising regulations applicable to licensed Retail Marijuana Establishments.

R 1200 Series – Enforcement

Basis and Purpose – R 1201

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(I), and 12-43.4-202(3)(b)(III) and sections 12-43.3-601, 12-43.4-701, 16-2.5-101, 16-2.5-120, and 16-2.5-124.5, C.R.S. The purpose of this rule is to allow for officers and employees of the Division to investigate all aspects of the marijuana Licensees to ensure the fair, impartial, stringent, and comprehensive administration of the Colorado Retail Marijuana Code and related regulations.

R 1201 – Duties of Officers and Employees of the State Licensing Authority

A. Duties of Director

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director of the Division.
2. The Director may authorize investigators and employees of the Division to perform tasks delegated from the State Licensing Authority.

B. Duties of Division Officers and Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and all Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Retail Code and rules promulgated pursuant to it;
2. Make arrests, with or without warrant, for any violation of the Retail Code, rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Retail Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties under this section, probable cause exists that a crime related to such laws has been or is being committed;
3. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Retail Marijuana and Retail Marijuana Products;
4. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;
5. Inspect, examine, or investigate any Licensed Premises where Retail Marijuana or Retail Marijuana Products are grown, stored, cultivated, manufactured, distributed or sold and any books and records in any way connected with any licensed activity;
6. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Retail Marijuana or Retail Marijuana Products;
7. Require Applicants to submit complete applications and fees and other information the Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;
8. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Licensees and Applicants for Retail Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and
9. Exercise any other power or duty authorized by law.

- C. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop these rules in consultation with law enforcement and other interested stakeholders to ensure effective and comprehensive regulation of the Retail Marijuana industry.

It is anticipated that such rules will at a minimum address searches, seizures and forfeiture of any Licensed Premises where Retail Marijuana or Retail Marijuana Products are grown, stored, cultivated, manufactured, distributed or sold and any property, books and records in any way connected with any licensed activity.

Basis and Purpose – R 1202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), and 12-43.4-202(3)(b)(III) and section 12-43.4-602, C.R.S. This rule explains that Licensees must cooperate with Division employees when they acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the process for forfeiture of unauthorized marijuana.

R 1202 – Requirements for Inspections and Investigations, Searches, Seizures, Forfeitures, and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees

1. Applicants and Licensees must cooperate with employees and officers of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Retail Code.
2. No Applicant or Licensee shall by any means interfere with, obstruct or impede the State Licensing Authority or employee or officer of the Division from exercising their duties under the provisions of the Retail Code and all regulations promulgated thereunder. This would include, but is not limited to:
 - a. Threatening violence against an employee or officer of the Division;
 - b. Denying employees or officers of the Division access to a Licensed Premises during business hours or times of apparent activity;
 - c. Providing false or misleading statements;
 - d. Providing false or misleading documents and records; or
 - e. Failing to timely produce requested books and records required to be maintained by the Licensee.

B. Voluntary surrender of Retail Marijuana, retail marijuana plants or Retail Marijuana Product

A Licensee, upon mutual agreement with Division, may elect to waive a right to a hearing and associated rights, and voluntarily surrender any Retail Marijuana, retail marijuana plants, or Retail Marijuana Product to the Division. Such voluntary surrender may require destruction of any Retail Marijuana, retail marijuana plants, or Retail Marijuana Products in the presence of a Division investigator in compliance with any applicable laws and regulations and with approval by the State Licensing Authority or delegate.

- C. Additional Regulation Likely. The State Licensing Authority anticipates that it will further develop these rules in consultation with law enforcement and other interested stakeholders to ensure effective and comprehensive regulation of the Retail Marijuana industry.

It is anticipated that such rules will at a minimum address the potential adverse impact on an administrative proceeding under the Retail Code of an Applicant's or Licensee's assertion of the privilege against self-incrimination. Such rules will also address

procedures for safeguarding or seizing potential evidence or any unlawfully held property, including but not limited to live marijuana plants, pending any administrative, civil or criminal investigation and any subsequent proceedings.

Basis and Purpose – R 1203

The statutory authority for this rule is found at subsections 12-43.4-202(1)(b)(I) and 12-43.4-602, C.R.S. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the licensee is ordered to surrender and/or destroy Retail Marijuana or Retail Marijuana products. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order.

R 1203 – Disposition of Unauthorized Retail Marijuana

- A. After Final Agency Order Orders Destruction of Marijuana. If the State Licensing Authority issues a final agency order pursuant to section 12-43.4-602, C.R.S., that orders the destruction of some or all of the Licensee's Retail Marijuana or Retail Products (the "final agency order"), the Licensee may:
 1. Voluntarily Surrender. The licensee may voluntarily surrender to the Division all of its marijuana plants and marijuana products that are described in the final agency order. If the Licensee chooses to voluntarily surrender its plants and products:
 - a. The licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the final agency order.
 - b. The individual signing on behalf of the licensee must affirm that the individual has authority to represent and bind the licensee.
 2. Seek A Stay. File a petition for stay of the final agency order with the Denver district court within 15 days of the date of the final agency order.
 3. Take No Action. If the licensee does not either (1) voluntarily surrender its marijuana as set forth in section A(1)(a) of this rule; or (2) properly seeks a stay of the final agency order as set forth in section A(2) of this rule, the Division will enter upon the licensed premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the final agency order. The Division will only take such action if the district attorney for the judicial district in which the marijuana is located has not notified the Division within 15 days of receiving notice from the Division that the subject marijuana constitutes evidence in a criminal proceeding and that it should not be destroyed.
- B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Marijuana. The following requirements apply regardless of whether the Licensee voluntarily surrenders its marijuana plants or marijuana products seeks a stay of agency action, or takes no action:
 1. The 15 day period set forth in section 12-43.3-602(5), C.R.S., and this rule shall include holiday and weekends.
 2. During the period of time between the issuance of the final agency order and the destruction of the marijuana plants and/or marijuana products the Licensee shall not sell, destroy, or otherwise let any marijuana plants or that are subject to the final agency order leave the licensed premises, unless specifically authorized by the State Licensing Authority or Court order.
 3. Unless the State Licensing Authority otherwise orders, the licensee may cultivate, water, or otherwise care for any marijuana plants or marijuana products that are subject to the final agency order during the period of time between the issuance of the final agency order and the destruction of the marijuana plants or marijuana products.
 4. If a district attorney notifies the Division that some or all of the marijuana or marijuana products are involved in an investigation, the Division shall not destroy any marijuana or marijuana products until approved by the district attorney.

R 1300 Series – Discipline

Basis and Purpose – R 1301

The statutory authority for this rule is found at sections 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated.

R 1301 – Disciplinary Process: Non-Summary Suspensions

A. How a Disciplinary Action is Initiated

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Retail Code, any rule or regulation promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why its license should not be suspended or revoked.
2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule R 1304 – Administrative Hearings.

Basis and Purpose – R 1302

The statutory authority for this rule is found at sections 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c). Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately revoke a license prior to a hearing. Such an occasion will occur when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or has committed an infraction of such magnitude that it is imperative its license be revoked to protect the public safety and welfare. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions.

R 1302 – Disciplinary Process: Summary Suspensions

A. How a Summary Suspension Action is Initiated

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.
2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the license may be subject to further discipline or revocation should the charges contained in the notice be sustained following a hearing.
3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued.

- B. Summary Suspension Hearings. Summary suspension hearings will be expedited to the extent practicable and will be conducted in accordance with Rule R 1304 – Administrative Hearings.

Basis and Purpose – R 1303

The statutory authority for this rule is found at sections 24-4-105, 12.43.4-601, and 12-43.4-602 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity). In addition, the rule clarifies what activity is always prohibited during such suspension.

R 1303 – Suspension Process: Regular and Summary Suspensions

- A. Signs Required During Active Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and 14 inches in width containing lettering not less 1/2" in height.

- 1. For suspension following issuance of a final agency order, the sign shall be in the following form:

NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

- 2. For a summary suspension pending issuance of a final agency order, the sign shall be in the following form:

NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

Any advertisement or posted signs, that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this rule shall be deemed a violation.

- B. Prohibited Activity During Active Suspension

- 1. Retail Licensee. During any period of active license suspension the Licensee shall not permit the selling, serving, giving away, distribution or possession of Retail Marijuana or Retail Marijuana Products on the Licensed Premises.

However, Retail Marijuana and Retail Marijuana Products shall be removed from the Licensed Premises or destroyed unless and until the provisions described in sections 12-43.4-602, C.R.S. related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

2. Cultivation Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain its on hand inventory and otherwise care for its Retail Marijuana and plant inventories. However, marijuana shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule R 1203 – Disposition of Unauthorized Retail Marijuana.
3. Manufacturing Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain Retail Marijuana Products on the Licensed Premises. However, Retail Marijuana Products shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule R 1203 – Disposition of Unauthorized Retail Marijuana.

Basis and Purpose – R 1304

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I) and section 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the scope of the administrative hearings rules, and other general hearings issues.

R 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department of Revenue, Hearings Division. Unless the Hearing Officer orders a change of location based on good cause, as described in this Rule, all hearings will be conducted at the Division's hearing facilities in Denver, Colorado.
2. Scope of Hearing Rules. The Administrative Hearings rules shall be construed to promote the just and efficient determination of all matters presented.
3. Right to Legal Counsel. Any respondent has a right to legal counsel throughout all processes described in rules associated with disciplinary action. Such counsel shall to be provided solely at the respondent's expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial, and been denied a license pursuant to the R 200 Series – Licensing, may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to:

Marijuana Enforcement Division

Attn: Hearing Request

455 Sherman Street, Suite 390

The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request will not be considered.

2. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.
3. A Denied Applicant or Respondent may waive his or her right to a hearing by submitting a written statement to the State Licensing Authority to that effect before the hearing.

C. When a Responsive Pleading is Required

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any administrative notice or Order to Show Cause. If a Respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.
2. In connection with any request for a hearing, a Denied Applicant shall provide a written response to the Notice of Denial.

D. Hearing Notices

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.
2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.
 - a. Summary suspension hearings will be scheduled and held promptly.
 - b. Continuances may be granted for good cause, as described in this Rule, shown. A motion for a continuance must be timely.
 - c. For purposes of this Rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness's testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the Hearing Officer upon request of any party, or upon the Hearing Officer's own motion. If a prehearing conference is held and a

prehearing order is issued by the Hearing Officer, the prehearing order will control the course of the proceedings. Such prehearing conferences may occur by telephone.

2. Depositions. Depositions are generally not allowed; however, a Hearing Officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a Hearing Officer grants a motion for a deposition, C.R.C.P. 27 controls. Hearings will not be continued because a deposition is allowed unless both parties stipulate to a continuance and the Hearing Officer grants the continuation.
3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the Hearing Officer, each party shall file with the Hearing Officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the Hearing Officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:
 - a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.
 - b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.
 - c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Respondent/Denied Applicant using letters.
 - d. Stipulations. A listing of all stipulations of fact or law reached, as well as a listing of any additional stipulations requested or offered to facilitate disposition of the case.
 - e. The information provided in a prehearing statement shall be binding on each party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; and (2) it would not prejudice other parties or necessitate a delay of the hearing.
4. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the Hearing Officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings

1. The Hearing Officer shall cause all hearings to be electronically recorded.
2. The Hearing Officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to the hearing officer when the prehearing statement is filed.
3. The Hearing Officer may question any witness.
4. Court Rules
 - a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a Hearing Officer. A Hearing Officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

- b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a Hearing Officer.

5. Exhibits

- a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.
- b. The Division shall use numbers to mark its exhibits.
- c. The Denied Applicant/Respondent shall use letters to mark its exhibits.

- 6. The Hearing Officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

- G. Post Hearing. After considering all the evidence, the Hearing Officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an initial decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision.
- H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point in the hearing process. A party or counsel for a party shall not initiate any communication with a Hearing Officer pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Copies of all pleadings and correspondence submitted to the Hearing Officer by parties shall be served upon all other parties.
- I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – R 1305

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c) and 12-43.4-202(3)(a)(I) and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

R 1305 – Administrative Subpoenas

- A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to voluntarily secure the presence of witnesses necessary for the hearing prior to requesting subpoenas.
- B. Attorneys Retain Subpoena Power. Attorneys representing a party in an administrative hearing have subpoena power as they do in other legal matters.
- C. Hearing Officer May Issue Subpoenas
 - 1. A party or its counsel may request the Hearing Officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the Hearing Officer must be delivered in Person or by mail to the office of the Department of Revenue – Hearings Division, 1881 Pierce St. #106, Lakewood, CO 80214. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.
3. Requests for subpoenas to be issued by the Hearing Officer must be made on a “Request for Subpoena” form authorized and provided by the Hearings Division. A Hearing Officer shall not issue a subpoena unless the request contains the following information:
 - a. Name of Denied Applicant or Respondent;
 - b. License or application number;
 - c. Case number;
 - d. Date of hearing;
 - e. Location of hearing, or telephone number for telephone check-in;
 - f. Time of hearing; and
 - g. Name of witness to be subpoenaed; and
 - h. mailing address of witness (home or business).
4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.
5. Requests for subpoenas shall be signed by the requesting party or their counsel.
6. The Hearing Officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing Hearing Officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

D. Service of Subpoenas

1. Service of any subpoena is the duty of the party requesting the subpoena.
2. All subpoenas must be served at least two business days prior to the hearing.

E. Subpoena Enforcement

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Hearing Officer.
2. A Hearing Officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – R 1306

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), and 12-43.4-202(3)(a)(l) and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to establish how parties may appeal a hearing officer's initial decision pursuant to the Administrative Procedure Act.

R 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision

- A. Exceptions Process. Any party may appeal an initial decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the initial decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exceptions shall be served on all parties.
- B. Designation of Record. Any party that seeks to reverse or modify the initial decision of the Hearing Officer shall file with the State Licensing Authority, within 20 days from the mailing of the initial decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party or the Division may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.
- C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the initial decision upon motion by either party for Good Cause shown.
- D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – R 1307

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-104(6)(f) and 12-43.4-601(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Retail Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority considered the type of violation and the threat of harm to the public verses purely administrative harm when setting the penalty structure.

R 1307 – Penalties

- A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:
 - 1. License Violations Affecting Public Safety. This category of violation is the most severe and includes, but is not limited to, Retail Marijuana sales to Persons under the age of 21 years, consuming marijuana on the Licensed Premises, or Retail Marijuana sales in excess of the relevant transaction limit, permitting the diversion of Retail Marijuana outside the regulated distribution system, not adhering to inventory tracking procedures, failure to maintain books and records to fully account for all transactions of the business, or packaging or Labeling violations that directly impact consumer 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 in lieu of suspension of up to \$100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
 - 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, advertising and/or marketing violations, packaging or Labeling violations that do not directly impact consumer safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business

books and records, or failure to comply with any inventory tracking systems developed and established by the State Licensing Authority. The range of penalties for this category of violation may include a written warning, license suspension, 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 Infractions. This category of violation is the least severe and includes, but is not limited to, failure to display required badges, unauthorized modifications of the premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, and/or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The penalty structure is intended for reference purposes only. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.
3. For all administrative offenses, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of 12-43.4-601, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors include:

1. Action taken by the Licensee to prevent the violation (e.g. training provided to employees).
2. Licensee's past history of success or failure with compliance checks.
3. Corrective action(s) taken by the Licensee.
4. Prior violations/prior corrective action(s) and their effectiveness.
5. Willfulness and deliberateness of the violation.
6. Likelihood of reoccurrence of the violation.
7. Circumstances surrounding the violation, which may include, but is not limited to:
 - a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.
 - b. The dress or appearance of an underage operative used during an underage compliance check (e.g. the operative was wearing a high school letter jacket).
8. Owner or manager is the violator or has directed an employee or other individual to violate the law.

R 1400 Series – Division, Local Jurisdiction, and Law Enforcement Procedures

Basis and Purpose – R 1401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), 12-43.4-202(3)(b)(III), and 12-43.3-301(1), C.R.S. This rule gives general instructions regarding Retail Marijuana Establishment administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Retail Marijuana Establishments remains unaffected by the Retail Code or any rules promulgated thereunder.

R 1401 – Instructions for Local Jurisdictions and Law Enforcement Officers

A. Division Protocol for Retail Marijuana Establishments

1. The Division shall forward a copy of all new Retail Marijuana Establishment applications to the relevant local jurisdiction.
2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Establishment application to the relevant local jurisdiction.
3. The Division shall notify local jurisdictions when an application for a Retail Marijuana Establishment is either approved or denied.
4. Any license issued or renewed by the Division for Retail Marijuana Establishments shall be conditioned upon local jurisdiction approval of the application.

B. Local Jurisdiction Protocol for Retail Marijuana Establishments

1. As soon as practicable, local jurisdictions that have prohibited the operation of Retail Marijuana Establishments shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.
2. If a local jurisdiction will authorize the operation of marijuana establishments, they shall inform the Division of the local point-of-contact on Retail Marijuana regulatory matters. The local jurisdiction shall include, at minimum, the name of the Division or branch of local government, the mailing address of that entity, and telephone number.
3. Local jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Retail Marijuana Establishments, and shall otherwise determine if an application meets those local requirements.
4. The local jurisdiction shall notify the Division, in writing, of whether an application for a Retail Marijuana Establishment complies with local restrictions and requirements, and whether the application is approved or denied based on that review. Local authorities shall include their written findings of fact.

C. Local Jurisdiction Inspections. The relevant local jurisdictions and their investigators may inspect Retail Marijuana Establishments during all business hours and other times of apparent activity, for the purpose of inspection or investigation

D. Local Jurisdiction Authority. Nothing in these rules shall be construed to limit the authority of local jurisdictions as established by the Retail Code or otherwise by law.

E. Local Law Enforcement's Authority Not Impaired by Retail Code. Nothing in the Retail Code or regulations promulgated thereunder shall be construed to limit local police departments, sheriffs, or other state or local law enforcement agencies' ability to investigate unlawful activity in relation to a Retail Marijuana Establishment and shall have the ability to run a Colorado Crime Information Center criminal history check of a Licensee or employee of a Licensee during an investigation of unlawful activity

related to Retail Marijuana or a Retail Marijuana Establishment. This includes, but is not limited to, inspecting and investigating Retail Marijuana Establishments to ensure they are in compliance with all local jurisdiction regulations related to time, place and manner.

Basis and Purpose: R 1402

The statutory authority for this rule is found at subsections 12-43.4-201, 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX), 12-43.4-901(6), and sections 16-2.5-121, and 16-2.5-124.5, C.R.S. This purpose of this rule is to clarify existing law for the regulated community that allows Division inspectors while performing their duties have the authority to enforce the requirements of this Code and other Colorado criminal laws because they are certified by the Peace Officer Standards and Training Board. This Board documents and manages the training and certification of all active peace officers and reserve peace officers working for Colorado law enforcement agencies, including the Department of Revenue.

R 1402 – Division Inspectors and Supervisors

- A. Duties. Division inspectors and their supervisors, while engaged in the performance of their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of this state. In the exercise of their duties, such inspectors and their supervisors shall have the power to detain and arrest. Such inspectors and their supervisors shall also have the authority to issue summons for violations of the provisions of this article and other criminal offenses found in Title 18 of the Colorado Revised Statutes.
- B. Interference with Division Inspectors or Officers. No licensee or person shall by force or threat of force, including any letter or other communication threatening such force, endeavor to intimidate, obstruct or impede inspectors of the Divisions, their supervisors, or any peace officers from exercising their duties. The term "threat of force" includes the threat of bodily harm to the officer or to a member of his/her family.