

Chapter 5.22

RETAIL MARIJUANA LICENSING - GENERAL PROVISIONS

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5.22.010 Purpose and Description. The purpose of this Chapter is to regulate and control potential adverse effects from medical and retail marijuana businesses in accordance with the power granted by the Colorado Constitution, state law, and the Town’s police power, and thereby to protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of the surrounding neighborhoods. This Chapter is authorized by the Colorado Medical Marijuana Code, Article 11, Title 44, Colorado Revised Statutes (“Medical Code”) and Retail Marijuana Code, Article 12, Title 44, Colorado Revised Statutes (“Retail Code”) (collectively, the “Codes”), other applicable law.

(Ord.488, §6, 2017) (Ord. 497, § 2, 2019)

- 5.22.020 Adoption of Colorado Medical and Retail Marijuana Codes. Except as

expressly set forth herein, the Town hereby adopts and incorporates herein the Medical Code, Retail Code, and the provisions of the Colorado Department of Revenue Marijuana Enforcement Division Permanent Rules Related to the Colorado Marijuana Code, 1 CCR 212-1 and 212-2, as now existing or as may be hereafter amended. At least one (1) copy of these documents will be kept on file by the Town Clerk and open to public inspection during regular business hours.

(Ord.488, §6, 2017) (Ord.497, §2, 2019)

5.22.030 Definitions. Except where specifically defined in this Section, the capitalized terms in this Chapter shall have the same meaning as that set forth in Article XVIII, Section 16 of the Colorado Constitution, the Codes, or the Permanent Rules Related to the Colorado Marijuana Code. In the event of any conflict between such documents, the Permanent Rules shall control over this Section, the Colorado statutes shall control over the Permanent Rules, and the Colorado Constitution shall control over all other legal authorities. Federal law shall not be relevant in interpreting this Section.

- A. Applicant shall mean the person or entity submitting an Application, Change Application, Renewal Application, or other application provided for under this Chapter, and shall include all members, shareholders, officers, directors, partners and managers in the case of a corporate entity or partnership.
- B. Application shall mean the submission by an Applicant of all materials required under this Chapter or under the Code or Permanent Rules for a new License.
- C. Change Application means an application from a Licensee to change the location of a License or to modify or expand a Licensed Premises, including by adding a new type of Retail or Medical Marijuana Establishment to the licensed premises that complies with Section 5.22.111.
- D. Colorado Retail Marijuana Code or Retail Code shall mean Article 12 of Title 44, Colorado Revised Statutes, as amended.
- E. Colorado Medical Marijuana Code or Medical Code Shall Mean Article 11, Title 44 of the Colorado Revised Statutes, as amended.
- F. License shall mean a license granted by the Town to an Applicant for a Licensed Premises.
- G. Licensed Premises shall mean the premises specified in a State License supplied for approval pursuant to this Chapter, owned or in the possession of the Licensee permitting the Licensee to operate a Retail and/or Medical Marijuana Establishment in accordance with the provisions of the Codes and this Chapter.
- H. Licensee shall mean a person licensed pursuant to the Code and approved pursuant to this Chapter.

- I. Medical Marijuana shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- J. Medical Marijuana center shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- K. Medical Marijuana Establishment shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- L. Medical Marijuana-Infused Product shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- M. Medical Marijuana-Infused Products Manufacturing Facility shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- N. Medical Marijuana Testing Facility shall have the same meaning as set forth in Section 14.01.180 of the Municipal Code.
- O. Optional Premises Cultivation Operation shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- P. Permanent Rules Related to the Colorado Marijuana Code or Permanent Rules shall mean the Colorado Department of Revenue Permanent Rules Related to the Colorado Retail Marijuana Code, dated September 9, 2013, as the same may be in effect and amended from time to time.
- Q. Renewal Application means an application from an existing licensee to renew a License previously approved by the Board of Trustees pursuant to this Chapter that complies with Section 5.22.120.
- R. Retail Marijuana shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- S. Retail Marijuana Cultivation Facility-Limited shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- T. Retail Marijuana Cultivation Facility shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- U. Retail Marijuana Establishment shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- V. Retail Marijuana Product shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.
- W. Retail Marijuana Products Manufacturing Facility shall have the same meaning as that

set forth in Section 14.01.180 of the Municipal Code.

X. Retail Marijuana Store shall have the same meaning as that set forth in Section 14.01.180 of the Municipal Code.

Y. State License shall mean the license granted by the Colorado Department of Revenue pursuant to the Codes and Permanent Rules for the operation of a Medical or Retail Marijuana Establishment.

(Ord. 472, §5, 2016) (Ord. 488, §6, 2017) (Ord. 489, §3, 2017) (Ord. 497, §2, 2019)

5.22.040 License Required. It shall be unlawful for any person to operate a Medical or Retail Marijuana Establishment without a State License and without a License issued under the provisions of this Chapter. A separate License is required for each Medical Marijuana Establishment, Retail Marijuana Establishment and each Licensed Premises.

(Ord. 488, §6, 2017)

5.22.041 Limit on Licensed Premises. The total number of each type of Medical and Retail Marijuana Establishments, as defined in Chapter 14.01.180, licensed to operate within the Town shall not exceed four (4) at any point in time. No Application will be accepted, processed, or reviewed unless a License of the type applied for is available as of the date of submission of an Application.

(Ord. 456 § 4, 2015) (Ord.488, §6, 2017) (Ord.489, §3, 2017)

5.22.050 License Application.

An Application for the Operation of a Medical or Retail Marijuana Establishment at a Licensed Premises shall be made as required by the Codes and Permanent Rules. The Applicant has the burden of demonstrating compliance with the provisions of this Chapter, the Municipal Code, the Codes, the Permanent Rules, and any other applicable law, rule or regulation. All representations and information contained in the Application must be truthful. The Application to the Town shall include the following:

1. An application form provided by the Town.
2. A complete copy of the State License application as or to be submitted to the State Marijuana Enforcement Division.
3. Proof of ownership, lease, rental agreement, or other arrangement for possession of the proposed Licensed Premises
4. A diagram showing the configuration of the proposed Licensed Premises, including a statement of total floor space occupied by the businesses, and designating the use of each room or other area of the premises.

5. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.

6. Sign, security, video surveillance, odor control, and lighting plans indicating how the Applicant will comply with the requirements of the Codes, this Chapter and other applicable provisions of the Municipal Code.

7. An area map, drawn to scale, indicating the boundaries of the property upon which the Medical or Retail Marijuana Establishment is located, and indicating the proximity, measured per the standards as set forth below, of the proposed License Premises to any kindergarten through 12th grade public or private school and indicating the proximity to any other licensed Medical or Retail Marijuana Establishment.

8. The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (+/- 6"). A dimensioned map utilizing the Mesa County GIS system is acceptable.

9. The diagram shall designate the place at which the License will be conspicuously posted as required by this Chapter.

10. Payment of all required fees as set forth on the Town's Medical and Retail Marijuana Establishment fee schedule together with an agreement to reimburse consultant fees on a form provided by the Town.

(Ord. 486, §3, 2017) (Ord. 488, §6, 2017) (Ord. 489, §3, 2017)

5.22.060 Application Review Procedure.

A. Within ten (10) business days of submission of an Application the Town Administrator or its designee shall conduct an initial review of the Application to determine whether it is complete. Such initial review will examine whether:

(1) all application materials required by section 5.22.050 have been received;

(2) the proposed Licensed Premises location is approved pursuant to the zoning, land use laws and distance requirements of the Town, or that the necessary land use application(s) has been made under section 14.030.180 and 14.030.080. Land use applications may be processed concurrently with the Application for a License. If a licensee has obtained land use approval to operate a retail marijuana establishment of the licensed premises, additional land use approval will not be required to operate the same type of medical marijuana establishment on the same licensed premises unless the Town Administrator determines otherwise based on the criteria set forth in this Chapter. The same is true if a licensed premises was originally approved for the operation of a medical marijuana establishment and a licensee desires to operate the same type of retail marijuana establishment at the licensed premises;

(3) the Applicant has established a meeting date with the Colorado Department of Revenue Marijuana Enforcement Division at which an application for a state license will be submitted, or that the application for a State License has been submitted to and has been deemed complete by the Colorado Department of Revenue Marijuana Enforcement Division;

(4) the Applicant is, or will be, entitled to possession of the proposed Licensed Premises for which application is made by virtue of ownership, lease, rental agreement, or other arrangement for possession.

B. If during the initial review the Application is deemed incomplete the Town Administrator shall notify the Applicant in writing of the missing and required materials or information. The Applicant shall have ten (10) business days from this notice to provide the missing materials or information, or the Application will be deemed automatically denied.

C. If or when the Application is deemed complete the Town Administrator shall notify the Applicant and schedule a public hearing on the Application in front of the Board of Trustees not less than thirty (30) or not more than sixty (60) days from the date the Application is deemed complete.

D. The Applicant shall be required to provide notice of the public hearing at its sole cost and expense. Such notice shall be made by publishing a legal notice in a newspaper of general circulation within the Town, by posting a notice of public hearing in a conspicuous place on the premises viewable from a public right-of-way, and by mailing notice via certified U.S. Mail to all properties within 250 feet of the property line of the proposed premises. All notice must be provided, and all signs posted, not less than fifteen (15) days prior to the scheduled public hearing. The notice shall state the type of license applied for, the date of the application, the date of the hearing, the name and address of the Applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the Applicant is a partnership, the notice shall contain the names and addresses of all partners, and if the Applicant is a corporation, association, limited liability company or other organization, the notice shall contain the names and addresses of the president or manager or other managing officer(s) of the business as well as their members or shareholders, as applicable. If the partners, members, officers, managers, or shareholders are corporate entities and not individual persons, the individuals comprising such entities shall also be disclosed.

E. The Town Administrator shall forward the completed Application to all appropriate Town departments, consultants and referral agencies for review of compliance with the provisions of this Chapter, the Codes, the Permanent Rules, and any other applicable law, rule or regulation.

(Ord. 488, §6, 2017) (Ord. 489, §3, 2017)

5.22.070 Public Hearing Procedure.

A. Except as specifically set forth herein, all hearings for a License shall be conducted pursuant to the quasi-judicial procedures of Chapter 2.08.

B. The Board of Trustees may on its own motion and without the Applicant's consent continue the public hearing one (1) time to a date certain for a period not to exceed thirty (30) days. Continuances for longer than thirty (30) days require the consent of the Applicant.

C. All decisions on an Application shall be in writing stating the reasons therefore. The Board shall either deny the Application or approve the application with or without conditions. Within thirty (30) days after the date of the public hearing a copy of such decision shall be hand delivered or sent by first-class mail to the Applicant at the address shown in the Application. If the Board fails to approve the Application within these deadlines, unless the deadline is waived by the Applicant, such failure shall be deemed a denial of the Application.

D. The Town shall notify the state licensing authority of such decision.

5.22.080 Review Criteria and Appeals

A. In order to approve a License the Board of Trustees shall find:

1. The Application is complete and all fees have been paid.
2. Public Notice was properly provided pursuant to the provisions of this Chapter.
3. The Applicant is qualified under the provisions of this Chapter.
4. The State License Application has been prepared for submission to (including the setting of a meeting date with the Marijuana Enforcement Division) or received by the Marijuana Enforcement Division, deemed complete, and approved or conditioned on granting of the License by the Town.
5. The proposed Licensed Premises comply with the design and performance requirements of the Codes, the Permanent Rules, and this Chapter, including meeting the required spacing.

B. With respect to those decisions delegated to the Town Administrator in this Chapter. The Town Administrator shall consider and make decisions based on the following criteria, as appropriate.

1. The impact of the proposed action on the character, traffic, and public and utility services in the surrounding area;
2. The special review use approval criteria set forth in section 14-06-120(B) of the Town Code;
3. The decree and significance of the proposed change from the Applicant's original special review use and/or License approval, if any; and

4. Any other standards set forth in this Chapter.

C. Any person entitled to receive mailed public notice pursuant to Section 5.22.060(D) may appeal to the Town Board of Trustees a decision made by the Town Administrator pursuant to Section 5.22.060(A)(2). Said appeal will be conducted pursuant to Chapter 2.08 of the De Beque Municipal Code. Appeals of any decision made by the Board of Trustees pursuant to this Chapter shall be made to a court of competent jurisdiction in accordance with Colorado Law.

D. The approval requirements set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other state or local law, including, but not by way of limitation, a retail sales tax license, retail food establishment license, or development, zoning or building permit.

(Ord.488, §6, 2017) (Ord.489, §3, 2017)

5.22.090 Posting, Display of License. A. Every License issued by the Town for a Medical or Retail Marijuana Establishment shall be posted during the period such license is valid. Such License shall be posted in a conspicuous place and shall be visible from the principal entrance of the Licensed Premises. When such License expires, it shall be removed; only valid Licenses in full force and effect shall remain posted.

B. It shall be the duty of each Licensee to exhibit the License upon the request of any peace officer or other official of the Town.

(Ord.488, §6, 2017)

5.22.100 Expiration of License. Each License shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 5.22.120 of this Chapter. A licensee must immediately notify the Town and cease operations if the licensee's State License expires or is not renewed for any reason. No licensee shall operate a Retail or Medical Marijuana Establishment without a valid, active State License.

(Ord.488, §6, 2017)

5.22.110 Transfer of License. No License shall be transferred from one person or entity to another without prior approval from the Town and the State. Any change of ownership, including change to corporate or partnership structure, shall require an application for transfer of ownership and payment of the transfer of ownership fee set by the Town. The Town Administrator shall approve or deny the transfer application based on the standards set forth in this Chapter. A transfer of a License in compliance with this Section 5.22.110 is not considered an application for a new License and is therefore not subject to or affected by Section 5.22.041.

(Ord.472, §5, 2016) (Ord. 486, §3, 2017)

5.22.111 Change of Location or Licensed Premises Modification.

A. A License may be transferred to a different location or a Licensed Premises may be modified or expanded, including by adding the operation of another type of Retail or Medical Marijuana Establishment at the licensed premises, only upon:

1. submission of a complete Change Application at least 30 days prior to the effective date of the proposed change;
2. payment of the License Change Application fee in effect at the time of application; and
3. approval of the Change Application by the Board of Trustees following a public meeting at which the Change Application was reviewed and considered. If the Change Application seeks only to modify or expand a Licensed Premises, including by adding the operation of another type of Retail or Medical Marijuana Establishment at the licensed premises, the Town Administrator may approve, conditionally approve, or deny the Change Application based on the standards set forth in this Chapter. The Town Administrator reserves the right to refer a Change Application to the Board of Trustees for review and approval thereof.

B. A Change Application shall include the following:

1. A change application form prepared and provided by the Town;
2. Proof of ownership, lease, rental agreement, or other arrangement for possession of the new location of the License and Licensed Premises;
3. Payment of the Change Application fee; and
4. A diagram showing the configuration of the proposed Licensed Premises at the new location or the proposed modifications to the Licensed Premises at the original location, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises and which rooms or areas where patrons are not permitted.

C. The Application Review Procedures set forth in Section 5.22.060(A) – (C) and (E) shall apply to all Change Applications, except that the Town Administrator shall schedule a public meeting for review of the Application instead of a public hearing.

D. In order to approve a Change Application the Board of Trustees shall find:

1. The Change Application is complete and all fees have been paid;
2. Public Notice was properly provided pursuant to the provisions of this Chapter; and
3. the proposed new location of the Licensed Premises is permitted under the zoning, land use laws, and distance requirements of the Town, or that the necessary land use application(s) has been made under section 14.030.180 and 14.030.080 and approved. Land use applications may be processed concurrently with the Change Application.

E. Applicant shall change the location of its business to that specified in the approved Change Application within 60 days of the Board of Trustee's approving the Change Application pursuant to this Chapter.

F. At no time may a Medical or Retail Marijuana Establishment operate or exercise any of the privileges granted pursuant to a License in more than one location.

G. A Change Application is not considered an application for a new License and is therefore no subject to or affected by Section 5.22.041.

(Ord.472, §5, 2016) (Ord. 486, §3, 2017) (Ord.488, §6, 2017) (Ord.489, §3, 2017)

5.22.120 Renewal of License.

A. At any time from sixty (60) to thirty (30) days prior to the expiration of the current License, a Licensee may submit a Renewal Application to renew the existing License for the succeeding year and pay the required fees. Unless otherwise provided by this Chapter, if application is so made and no action or proceeding is pending against the Licensee for suspension or revocation of the current License, such License may continue as valid unless or until the Renewal Application is reviewed by the Board of Trustees.

B. The Town Administrator or its designee shall send the Renewal Application to all Town departments for review and comment.

C. The Renewal Application shall be brought before the Board of Trustees for consideration at a public meeting of the Board.

D. The Town Clerk shall have authority to renew the subject License if there have been no suspensions of the License during the previous one (1) year period, if there are no written objections from the Marshal's office, and if there is no information submitted by any Town department or any member of the public suggesting any violation of this Chapter, the Retail or Medical Code, or the Permanent Rules. Otherwise, the Renewal Application shall be brought before the Town Board of Trustees for consideration at a public meeting.

E. The Board of Trustees may renew the License upon a finding that Licensee's licensed Medical or Retail Marijuana Establishment was operational as of the date the Renewal Application was considered by the Board and that there have not been any suspensions of the License or violations of this Chapter, the Code, or the Permanent Rules by the Licensee within the preceding one (1) year period. Should the Licensee's Medical or Retail Marijuana Establishment not be operational, a violation have been found to exist or for other good cause the Board of Trustees may renew the License with or without conditions or may deny the renewal.

F. A Renewal Application is not considered an application for a new License and is therefore no subject to or affected by Section 5.22.041.

(Ord. 472, §5, 2016) (Ord. 486, §3, 2017) (Ord. 488, §6, 2017) (Ord. 497, §2, 2019)

5.22.130 Inspection. A. The Licensee and/or owner of any Licensed Premises shall permit representatives of the Colorado Marijuana Enforcement Division, Marshal's Department, Mesa County Health Department, Town Administrator or his designee, or the Fire Department, to inspect the premises of a Medical or Retail Marijuana Establishment for the purpose of ensuring compliance with this Chapter, the Code and the Permanent Rules.

B. Town departments and agencies shall conduct such inspections in a reasonable manner and only as frequently as may be reasonably necessary.

C. Except in cases of emergency, inspections shall take place during the regular business hours of the Medical or Retail Marijuana Establishment or when any person is on the Licensed Premises.

D. It shall be unlawful for the Licensee or any employee to refuse to permit such lawful inspection of the Licensed Premises as provided in this Section.

(Ord.488, §6, 2017)

5.22.140 License Suspension or Revocation. A. The Town shall conduct a hearing to suspend a License for a set period of time and may revoke a License if the Board of Trustees determines that a Licensee has:

1. Violated or is not in compliance with this Chapter or other provisions of the Municipal Code.
2. Refused to allow an inspection of the Licensed Premises as authorized by this Chapter.
3. Knowingly permitted any act upon the premises that is unlawful under the laws of the State of Colorado or the Town.
4. Violated any provision of the Codes or Permanent Rules.
5. The Licensee has failed to file required reports or to furnish such other information as may be reasonably required by Town under the authority vested in it by the Codes or Permanent Rules.

In the event the State License is suspended or revoked for any reason the License granted by the Town under this Chapter shall automatically be suspended for the same period or revoked without any further action by the Town.

B. In determining the action to be taken as provided in this Section, the Town shall consider the following aggravating and mitigating circumstances:

1. Whether the License has been previously suspended or revoked.

2. Whether the Licensee was warned that the conduct involved could lead to a suspension or revocation.
3. Whether the cause for suspension or revocation involves one or several violations.
4. Whether the violation(s) are technical or substantive in nature.
5. The extent to which the Licensee, Licensee's agents and employees, as opposed to patrons, were involved in the violation(s).
6. The extent to which the Licensee or Licensee's employees had knowledge of the violation(s).
7. Any corrective or remedial action the Licensee has taken to prevent similar violation(s) in the future.
8. Whether the violation(s) involved the commission of a crime, and if so, the degree of crime involved.
9. The extent to which the violation(s) caused personal injuries or property damages.
10. Whether the Licensee has paid damages or made restitution to any person or entity damaged by the violation(s).
11. The extent to which the violations posed a significant risk to the health, safety and welfare of persons on or off of the Licensed Premises.
12. The length of time over which the violation(s) extended.
13. The extent to which the Licensee or Licensee's employees realized a financial gain from the violation(s).
14. The number of employees, patrons, or both involved in the violation(s).
15. The nature and extent of enforcement action taken by the Town or any law enforcement to detect the violation(s).
16. The involvement of any persons under twenty one (21) years of age in the violation(s).
17. The extent to which the Licensee or Licensee's employees have attempted to cover up the violation(s), destroy evidence or otherwise hinder the investigation and detection of the violation(s).

18. The extent to which the Licensee and Licensee's employees have acted in good faith.

(Ord.488, §6, 2017)

5.22.150 License Revocation. A. The Board of Trustees may revoke a license if the Board finds and determines that:

1. The License has previously been suspended within the preceding twelve (12) months;
2. The Licensee gave false information in the material submitted to the Town;
3. A Licensee or employee has knowingly allowed consumption of marijuana on the Licensed Premises;
4. A Licensee or an employee has knowingly allowed someone under the age of twenty-one onto the Licensed Premises;
5. A Licensee or an employee knowingly operated the Medical or Retail Marijuana Establishment during a period of time when the License was suspended; or
6. A Licensee has commenced operation of its Medical or Retail Marijuana Establishment without satisfying all conditions precedent, if any, imposed on the initial grant or renewal of Licensee's License.

B. When the Town revokes a license, the revocation shall continue for one (1) year, and the Licensee shall not be issued a License for one (1) year for the premises in question, nor as to any other premises within the Town, from the date revocation became effective.

(Ord.488, §6, 2017) (Ord. 486, §3, 2017)

5.22.160 Hearings. A. The Board of Trustees shall conduct hearings for suspension or revocation of Licenses granted pursuant to this Chapter in accordance with Chapter 2.08 of the De Beque Municipal Code. The Board of Trustees shall make findings of fact and conclusions concerning the revocation or suspension of a license. The Board of Trustees shall transmit a copy of the final findings of fact and conclusion to the Licensee as provided hereafter and to the State.

B. Upon commencement of suspension or revocation proceedings, the Town Administrator or its designee shall set a time and place for a hearing of the matter before the Board of Trustees.

C. The Town Administrator shall give the Licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished to the Town by the Licensee, at least ten (10) days

prior to the hearing. In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the Licensed Premises.

D. In any hearing the Licensee shall be afforded an opportunity to be heard, present evidence, cross-examine witnesses, and offer evidence in mitigation of any alleged violations.

E. All evidence shall be recorded by electronic recording device.

F. In all such proceedings, the Town Attorney shall act as the attorney on behalf of the Town.

5.22.170 Notice of Suspension or Revocation. A. Upon suspension or revocation of any License required by this Chapter, notice of such suspension or revocation shall be given by personally serving the Licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the Licensee as shown on the License or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the Licensed Premises.

B. The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting.

C. A decision of Board of Trustees is reviewable only by the Mesa County District Court under C.R.C.P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by Court order.

5.22.180 Effect of Suspension or Revocation. Upon the effective date of suspension or revocation of any License, the Licensee shall immediately cease and desist from further operation or activity.

5.22.190 Summary Suspension. When the conduct of any Licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the Town Administrator shall have the authority to summarily order the cessation of business and the closure of the Licensed Premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the Licensee in writing, the Board of Trustees shall conduct a hearing upon the summary order and the activity giving rise to such order within fifteen (15) days after the Town Administrator has acted. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed herein. At such hearing the Licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation.

5.22.200 Performance Standards for Medical and Retail Marijuana Establishments

A. Hours of Operation. All Medical and Retail Marijuana Establishments may operate from the hours of 9:00am to 10:00pm, Monday through Sunday.

B. Location of Licensed Premises. Medical and Retail Marijuana Establishments shall be located only in areas of the Town as allowed in Chapter 14. No Medical or Retail Marijuana Establishment shall be located:

(1) within four hundred feet (400') of any existing public or private school facility where classes are held for children aged kindergarten through the 12th grade. The distance shall be computed by a straight line measurement from the nearest property line of the school property to the nearest structure line of the premises housing the Medical or Retail Marijuana Establishment;

(2) in any zone district not specifically permitted by right or as a special review use by Chapter 14.

C. Qualifications of Applicants. In addition to the requirements of the Codes and Permanent Rules, the Applicant and Licensee shall:

(1) Demonstrate that they possess the qualities of honesty, fairness, candor, trustworthiness and responsibility, that they do not have a history of prior misconduct. Prior acts of misconduct include, but are not necessarily limited to: criminal convictions, criminal or other formal charges of fraud, theft, or an act of moral turpitude.

(2) Not be in default under the provisions of this Chapter or the Town Code or be in default of any agreement with the Town.

D. Miscellaneous. In addition, all Medical or Retail Marijuana Establishments shall comply with the following requirements:

(1) Any applicable Town business/sales tax license shall be obtained, and all applicable state, county, city, and special district sales taxes shall be collected and remitted in a timely manner.

(2) A sign permit shall be obtained from the Town for all signage. All exterior signage associated with a Medical or Retail Marijuana Establishment will meet the standards established in the Code and in the Municipal Code.

(3) No Licensee shall allow the smoking in public or consumption of any Medical or Retail Marijuana on the Licensed Premises.

(4) All sales and distribution of Medical or Retail Marijuana shall occur only upon the Licensed Premises unless distribution is done by a person or business with a valid medical or retail marijuana transporter license issued by the Colorado Marijuana Enforcement division, the Licensee is strictly prohibited from delivering Retail Marijuana to any person at any location other than the Licensed Premises.

(5) No Licensed Premises shall be managed by any person other than the Licensee or the establishment manager listed on the Application. Such Licensee or establishment manager shall be responsible for all activities that occur within the Licensed Premises.

(6) There shall be posted in a conspicuous location in each Medical and Retail Marijuana Establishment legible signs as required by the Codes, including but not limited to:

- a. A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;
- b. A warning that loitering in or around a Medical or Retail Marijuana Establishment is prohibited by state law;
- c. A warning that possession and distribution of marijuana is a violation of federal law;
- d. A warning that consumption of marijuana within a Medical or Retail Marijuana Establishment is prohibited;
- e. A warning that the smoking or consumption of marijuana in public is prohibited by state law;
- f. A notice that no-one under the age of twenty-one (21) is allowed on the Licensed Premises;
- g. The name and contact information for the owner or owners and any business manager of the Medical or Retail Marijuana Establishment;
- h. The State and Town Medical or Retail Marijuana Establishment license; and
- i. All sales tax/business licenses.

(7) The provisions of Chapter 7.10 of the Town Municipal Code shall apply to all Medical and Retail Marijuana Establishments. Pursuant to 7.10.040(B), an odor control plan must be submitted as follows:

- a. as part of an Application for a new License; or
- b. with respect to Licenses issued prior to the effective date of Chapter 7.10, the earlier of sixty days following the effective date of Chapter 7.10 or with the submission of the Licensee's next Renewal Application or Change Application. An inspection may occur within sixty (60) days of approval of an existing Licensee's odor control plan to determine compliance therewith.

(Ord. 487 §3, 2017) (Ord.488, §6, 2017)

5.22.210 Injunction. Any person who operates or causes to be operated a Medical or Retail Marijuana Establishment without a license is subject to suit for injunction as well as criminal prosecution. Nothing in this Section shall limit any other remedy available to the Town under applicable law.

(Ord.488, §6, 2017)

5.22.240 Prohibited Acts - Penalty. Any person who violates any provision of this Chapter, or who fails to perform an act required by any provision of this Chapter, commits a Class

A municipal offense. Each day that a violation continues shall be considered a separate violation.

(Ord. 444 § 2, 2014); (Amended Ord. 456 §4, 2015). (Ord. 485 §2, 2017)

