

6.48: PITKIN COUNTY RETAIL MARIJUANA LICENSING REGULATIONS

6.48.010: PURPOSE AND INTENT

Section 16 of Article XVIII of the Colorado Constitution decriminalizes the personal use and possession and retail sale of marijuana for adults. To implement the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, Title 12, Article 43.4 of the Colorado Revised Statutes (“CRMC”).

The purpose of these regulations is to authorize licensing in unincorporated Pitkin County as provided in § 12-43.4-301, C.R.S., by establishing specific standards and procedures for local licensing of retail marijuana establishments engaged in the cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana products, as provided by state law to protect the health safety, and welfare of the residents of Pitkin County.

6.48.020: DEFINED TERMS

The definitions in the CRMC, §12-43.4-103, C.R.S., shall apply to these regulations. The term “Local Licensing Authority” means the Pitkin County Retail Marijuana Licensing Authority. The term “Board” shall mean the Pitkin County Board of County Commissioners.

6.48.030: EFFECTIVE DATE AND APPLICABILITY

- A. Effective date. These regulations are effective upon final adoption of Ordinance No. 005-2014. It shall be unlawful operate a retail marijuana establishment in unincorporated Pitkin County for which a license is required under the CRMC without first having obtained a state license and a Pitkin County license under these regulations.
- B. Applications for local licenses. The Local Licensing Authority shall receive and process applications for licensing under the CRMC and these regulations.
- C. No entitlement or vested right. No person shall have any entitlement or vested right to licensing under these regulations. To lawfully engage in the business of cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana products in unincorporated Pitkin County, all persons or entities must obtain a license under these regulations.

6.48.040: LICENSING AUTHORITY

The Pitkin County Board of County Commissioners designates the Pitkin County Clerk and Recorder or her designee to act as the Pitkin County Retail Marijuana Licensing Authority.

6.48.050: LICENSES

The Board shall issue the following types of retail marijuana licenses should the applicant fulfill the requirements for such license: retail marijuana store license; retail marijuana cultivation facility

license; retail marijuana products manufacturing facility license; and retail marijuana testing facility license. Any of these licenses may be issued and conditioned with specific requirements relating to the particular license.

Local license applications shall be reviewed in order of receipt of state license and completeness of local license application.

(§ 6.48.050 amended (part) [Ord. 026-14, 07-09-14](#))

6.48.060: MULTIPLE RETAIL MARIJUANA OR MEDICAL MARIJUANA LICENSES

The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any State of Colorado or Pitkin County law. A valid license is required from both the State of Colorado and Pitkin County before operation of a retail marijuana establishment as provided by the CRMC. Each type of license is separate and distinct from another and confers no right to conduct any activity not specifically licensed.

A person may operate a licensed retail marijuana store, retail marijuana products manufacturing facility, and retail marijuana testing facility at the same location if appropriate licenses for the activities are obtained. The location of a retail marijuana cultivation facility may only be shared with a retail marijuana testing facility, an optional premises cultivation facility for medical marijuana or a retail marijuana products manufacturing facility if appropriate licenses for the facilities are obtained.

A dual medical marijuana center and retail marijuana store, dual retail marijuana manufacturing facility and medical marijuana infused products manufacturer, or dual testing facility may share the same location if appropriate licenses are obtained, but these licenses shall maintain uses physically separated in the premises, including entrances and exits, inventory, point of sale operations, and record keeping. A dual medical marijuana optional premises cultivation growing facility and retail marijuana cultivation facility operations shall maintain physical separation of the two facilities, the plants, and inventory of the two facilities.

The Board shall have the discretion to limit any location to only one licensed activity.

Physical separation is not required if the licensee complies with the Colorado Department of Revenue, Marijuana Enforcement Division, Marijuana Inventory Tracking Solutions (“MITS”). MITS is applicable for any retail marijuana license issued in combination with any medical marijuana license.

6.48.070: LICENSING PROCEDURE AND CRITERIA

A. General Procedure. The Local Licensing Authority shall process and maintain all complete local license applications as authorized by these regulations. Only upon receipt of a state retail marijuana license shall a local license application be reviewed and determined by the Board. Upon issuance of a local license, Pitkin County shall inform the state of the local license issuance. All applications for local licensing shall be made upon forms provided

by Pitkin County and shall include the following information:

1. The type of retail marijuana facility for which the license is sought;
2. Property owner authorization;
3. The name, address and disclosure of the county of residence of the applicant and all individuals with an ownership interest in the application;
4. A site plan of all existing buildings on the property where the premises is located, including a floor plan showing how the floor space will be used, parking for the premises, total floor area of the building(s), height of the building(s), total area of the property and the nature and location of any existing or proposed exterior lighting and signage;
5. A site plan of any proposed building(s) to be constructed, including a floor plan showing how the floor space is or will be used, location of proposed building(s) on the property, total proposed floor area of the building(s), height of the proposed building(s), the construction material of the proposed building(s), the screening of the proposed building(s);
6. The number of employees, their names, addresses, ages, the results of any background checks and if they hold occupational licenses;
7. Identification of any interior lighting, screening and odor mitigation equipment and procedures to prevent the outflow of light and odor detrimentally impacting surrounding properties; interior lighting;
8. A list of all other uses on the property;
9. The number of vehicle trips per day expected to be generated by the business;
10. The expected source and level of water use for the premises and viable water supply for the anticipated level of consumption and disposal of any waste water, waste marijuana or waste marijuana products;
11. Evidence that the premises is not within 1,000 feet of an existing alcohol or drug treatment facility, licensed child care facilities, or educational facilities at the time of initial licensing as measured from the closest point of the subject property lines;
12. Statement of the relevant zoning;
13. The Local Licensing Authority or the Board at its discretion may require the submission of additional materials as may be useful in making a determination under these regulations. The applicant shall be responsible for submitting materials directly to the Local Licensing Authority.

- B. **Public Hearing.** The Board shall schedule a public hearing on any initial application. Notice of the public hearing shall be published by the applicant by posting a sign in a conspicuous place on the license premises for which a local license application has been made, and by publication in the county's designated newspaper not less than ten days prior to the hearing, consistent with state law.
- C. **Review Criteria.** The Board shall consider the following criteria when evaluating a retail marijuana license application:
1. The number of licenses issued for operation of a retail marijuana store;
 2. The number of licenses issued for operation of a retail marijuana cultivation facility;
 3. The number of licenses issued for operation of a retail marijuana products manufacturing facility;
 4. The number of licenses issued for operation of a retail marijuana testing facility;
 5. The activities associated with each type of retail marijuana establishment for which a license is sought must comply with the zoning for the premises upon which the retail marijuana establishment would be located;
 6. The size of the facilities associated with a retail marijuana store license, including setbacks from property boundary, visibility and proximity to neighboring properties;
 7. The size of the facilities associated with a retail marijuana cultivation license, including setbacks from property boundary, visibility and proximity to neighboring properties;
 8. The size of the facilities associated with a retail marijuana products manufacturing license, including setbacks from property boundary, visibility and proximity to neighboring properties;
 9. The size of the facilities associated with a retail marijuana testing license, including setbacks from property boundary, visibility and proximity to neighboring properties;
 10. The retail marijuana establishment shall not cause a detrimental material increase in traffic impacts;
 11. The visibility of the retail marijuana establishment;
 12. The number of employees of the retail marijuana establishment;

13. Security concerns regarding the retail marijuana establishment;
14. The physical characteristics of the property upon which the retail marijuana establishment would be located;
15. The expected energy consumption of any proposed facility;
16. A license will not be issued for any Retail Marijuana Store, Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturer in the following Caucus Areas: Snowmass-Capitol, Frying Pan, Woody Creek and Emma, Upper Snowmass Creek, Maroon Creek and Castle Creek Caucus areas. A license will not be issued for a retail marijuana store within the Town of Redstone (Village Commercial District) in the Crystal River Caucus area. A license will not be issued for a Retail Marijuana Store or a Retail Marijuana Infused Products Manufacturer I the Snowmass-Capitol Creek Caucus area.

All applications for any type of retail marijuana license shall be referred for recommendation and comment to the caucus of the proposed license facility and any other caucus that has a reasonable expectation of experiencing impacts related to the issuance of the license.

17. The degree to which the operation and facilities of the retail marijuana establishment are detrimental to community character;
18. The reasonable requirements of the neighborhood, any reasonable restrictions that should be placed upon a retail marijuana establishment, and the concentration of the same class of retail marijuana license.

The Board shall grant or deny a license based solely upon its investigation and findings. The Board shall deny any application that is not in full compliance with these regulations.

*(§6.48 enacted [Ord. 021-2013](#), 09-25-13; § 6.48 repealed [Ord. 004-2014](#), 02-12-2014)
(§ 6.48.070 amended (part) [Ord. 009-2014](#), 05-06-2014; § 6.48.070 amended (part) [Ord. 026-2014](#), 07-09-14; § 6.48.070 amended (part) [Ord. 002-2015](#), 02-11-15) § 6.48.070 amended (part) [Ord. 024-2016](#); § 6.48.070 amended (part) [Ord. 011-2018](#), § 6.48.070 amended (part) [Ord. 034-2018](#), 07-11-18*

6.48.080: TERM OF LICENSE; RENEWAL

Any Pitkin County license issued under these regulations shall be valid for a period of one year from the date of issuance. A licensee shall submit a renewal application at least 30 days before the expiration of the license. Renewal applications may be processed administratively without a public hearing by the Pitkin County Retail Marijuana Licensing Authority only if the application is complete and the full renewal operating fee is paid, no violation of these regulations occurred during the previous license term, no changes to the license are requested, there was continuous

operation of the retail marijuana establishment during the preceding three months and no complaints are outstanding regarding the retail marijuana establishment concerning the previous license term. If a renewal application does not meet the requirements to be processed administratively, then the renewal application shall be heard by BOCC at public hearing under procedures in § 6.48.070(B) and review criteria contained in § 6.48.070(C).

Renewal applications shall contain a description of all previous violations and complaints and their outcome.

The Local Licensing Authority shall not accept an application for renewal of a license after 30 days prior to the date of expiration, except as otherwise provided in this section. The Local Licensing Authority may extend the expiration date of the license one time for a maximum of 30 days and accept a late application for renewal of a license provided that the applicant has filed a timely renewal application with the state licensing authority.

6.48.090: SIGNS

No advertising sign or logo shall be permitted on any retail marijuana cultivation facilities. One advertising sign or logo may be placed to identify the retail marijuana establishment other than cultivation facilities, which shall comply with the Pitkin County Code § 7-60-50.

6.48.100: FACILITY REQUIREMENTS

- A. All retail marijuana and marijuana products that have been prepared for sale, testing, infusion or manufacturing shall be stored within a completely enclosed, alarmed, and secure building at all times.
- B. All retail marijuana establishments shall satisfy all applicable Pitkin County Building, Land Use, Zoning, and Fire Codes.
- C. All retail marijuana establishments shall be equipped with a proper ventilation system so that odors are filtered and do not materially interfere with the enjoyment of adjoining property.
- D. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory facility, or make deliveries to retail consumers.
- E. All retail marijuana stores shall not open earlier than 9:00 a.m. and shall close no later than 9:00 p.m. There is no limit on the hours of operation for retail marijuana products manufacturing facilities, retail marijuana testing facilities and retail marijuana cultivation facilities.
- F. At the discretion of the Board, a retail marijuana establishment shall have an on-site caretaker or other resident occupant.

- G. Any change of the ownership interest of any of the individuals or entities associated with the retail marijuana establishment for which the license is granted shall be reported to the Pitkin County Retail Marijuana Licensing Authority within 7 days of such change. This report shall disclose which individuals no longer have an ownership interest in the licensed facility or if applicable, what individuals have gained an ownership interest. All individuals or entities with an ownership interest must provide all identifying information required by the license application.
- H. No sales of products other than marijuana or products containing marijuana shall be available for sale at retail marijuana stores. No individuals under the age of 21 shall be allowed admittance into any retail marijuana store.
- I. All licensees must maintain with the Pitkin County Licensing Authority an up to date list of contact information for anyone in a managerial capacity for any retail marijuana establishment. A manager shall be any individual with the authority and responsibility to respond to any law enforcement inquiry, inspection request, emergency situation at the facility or any other circumstance requiring immediate attention and action.
- J. All licensees must maintain with the Pitkin County licensing authority a current list of employees that discloses names, addresses, ages, results of state background checks, and any occupational licenses.
- K. All retail marijuana store licensees, their agents or employees and anyone conducting sales to the general public shall be familiar with the potency of all products for sale and shall be able and available to assist customers with their purchases by advising customers of expected effects, the duration, strength and delay after actual consumption of each infused product or strain of marijuana. All licensees shall participate in training programs sanctioned by the Pitkin County Sheriff as those programs are developed.
- L. An advisement on state and local laws and individual responsibility shall accompany any sale of retail marijuana or retail marijuana product and shall also be displayed prominently in any facility which offers retail marijuana or retail marijuana products for sale.
- M. All retail marijuana and retinal marijuana-infused products must be clearly identified as containing marijuana and packaged in a childproof manner as required by State law. This labeling shall appear in English and Spanish.

(§ 6.48.100 amended (part) [Ord. 026-14, 07-09-14](#))

6.48.110: CHANGES IN LICENSE

- A. **Transfer of Ownership.** Any license issued under these regulations or renewal of such license is not transferable or assignable.
- B. **Change of Location.** Any license granted under these regulations is limited to the location(s) specified on the license. Operation of a retail marijuana store license; retail

marijuana cultivation facility license; retail marijuana products manufacturing facility license; retail marijuana testing facility license at a new location requires a new license.

- C. Modification of premises. Licenses issued are based upon representations made in the application. Any structures identified in the application may not be enlarged nor additional structures added to the licensed retail marijuana establishment until a modification to the license is granted through application procedure in § 6.48.070(B) and pursuant to the review criteria contained in § 6.48.070(C).

6.48.120: INSPECTION

By signing and submitting a license application, the owner(s) of the premises and the license holder(s) consent to inspections of the premises by Pitkin County personnel and individuals accompanied by Pitkin County personnel for the purpose of determining compliance with state and county law.

6.48.130: PENALTIES & REVOCATION

- A. The Board has the authority to suspend, restrict, or revoke a license or impose a fine upon any violation of these regulations or license requirements or any rule promulgated pursuant to these regulations.
- B. Any violation of the Pitkin County Retail Marijuana Licensing Regulations or licensing requirements may be subject to a fine of up to \$1,000 per occurrence. Each day a violation exists shall be considered a separate occurrence subject to fine.
- C. Any complaint of a violation of Pitkin County Retail Marijuana Licensing Regulations or license requirements shall be referred to either the Pitkin County Marijuana Licensing Authority or the Pitkin County Attorney's Office and investigated if appropriate. If upon investigation by Pitkin County a violation is found, a hearing on the violation will be presided over by the Pitkin County Hearing Officer. Upon the Pitkin County Hearing Officer's determination a violation occurred, the Board may suspend, restrict or revoke a license and/or impose a fine. Pitkin County shall defer to the state to enforce compliance with the requirements of the CRMC and any other state regulations not covered by these regulations. A licensee may appeal the determination of violation by the Pitkin County Hearing Officer to the Board at the same hearing in which the Board shall determine the imposition of the penalty.

6.48.140: OPERATING FEES

Operating Fees are fees in addition to application fees.

All additional costs over the amount of applicable application and operating fees to investigate, remediate, process referrals or otherwise respond to applications or violations of State and County laws or license conditions shall be the responsibility of the licensee and shall be remitted

to Pitkin County at the rate of \$350 per hour of staff time. Failure to pay these costs are grounds for revocation of all licenses to the licensee.

<u>Operating Fees Applicable to:</u>	<u>Initial License</u>	<u>Renewal License</u>
Retail marijuana store	\$3,000	\$1,500
Retail marijuana cultivation facility	\$3,000	\$1,500
Retail marijuana products manufacturing facility	\$3,000	\$1,500
Retail marijuana testing facility	\$3,000	\$1,500
Modification of Premises	\$ 150	

Payments shall be made payable to the Pitkin County Treasurer. All fees are nonrefundable and must be paid at or before the time of any license issuance. All fees associated with these regulations shall be used as general funds of Pitkin County.

(§ 6.48 enacted [021-2013](#) 09-25-2013; repealing Ord No. 021-2013 [Ord. 004-14](#), 02-12-14) § 6.48.140 amended (part) Ord. 013-2015; § 6.48.140 amended (part) [Ord. 024-2016](#), 11-02-2016;