

## Chapter 6.11

### MARIJUANA LICENSING

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#### 6.11.010 Purpose.

The purpose of this chapter is to establish requirements for the licensing of medical marijuana establishments and retail marijuana establishments by the Town of Parachute, to designate a local licensing authority to render decisions on medical marijuana establishment and retail marijuana establishment licenses within the Town, and to regulate such establishments once licensed in order to protect the health, safety, and welfare of the citizens of the Town. This chapter is authorized by Article [XVIII](#), Section [16](#) of the Colorado Constitution and Articles [43.3](#) and [43.4](#) of Title [12](#) C.R.S., which vest the Town Council of the Town of Parachute with the authority to enact ordinances which, with respect to medical and retail marijuana establishments: govern the time, place, manner, and number of such establishments within the Town; govern the issuance, suspension, and

revocation of a license which may be issued by the Town for operation of such an establishment; establish a schedule of annual operating, licensing, and application fees for such establishments; and establish civil penalties for violation of the Town's ordinances governing such establishments. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.020 Adoption of Colorado Medical Marijuana Code and Colorado Retail Marijuana Code.

Except as expressly set forth in this chapter, the Town hereby adopts and incorporates herein the Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, medical marijuana regulations, and the retail marijuana regulations, as now existing or as hereafter amended. At least one (1) copy of each will be kept on file by the Town Clerk and open to public inspection during regular business hours. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, medical marijuana regulations, and the retail marijuana regulations or any other applicable state or local law, the more restrictive provision shall control. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.030 Definitions.

Except where otherwise specifically defined in this section, the definitions set forth in in Article [XVIII](#), Section [16](#) of the Colorado Constitution, Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, medical marijuana regulations, or the retail marijuana regulations shall control. In the event of any irreconcilable conflict between such documents, the medical marijuana regulations and retail marijuana regulations shall control over this section, the Colorado Medical Marijuana Code and Colorado Retail Marijuana Code shall control over the medical marijuana regulations and retail marijuana regulations, and the Colorado Constitution shall control over all legal authorities. Federal law shall not be relevant in interpreting this section. In addition, the following terms shall have the following meanings:

“Applicant” means a person, partnership, or entity, including all members, shareholders, officers, directors, partners and managers in the case of a corporate entity or partnership, that has submitted an application for a license under this chapter which has been accepted for review by the local licensing authority.

“Application” means the submission by an applicant of all materials required under this chapter for issuance or renewal of a license, change of locations, premises modifications, transfers of ownership, and changes in trade name.

“Colorado Medical Marijuana Code” means Article [43.3](#) of Title [12](#), C.R.S., as amended.

“Colorado Retail Marijuana Code” means Article [43.4](#) of Title [12](#), C.R.S., as amended.

“Good moral character” means the applicant has a personal history demonstrating honesty, fairness and respect for the rights of others and for the law; and applicant is not in default under the provisions of this chapter or the Town Code or in default of any agreement with the Town.

“License” means a license granted by the Town to an applicant for operation of a medical marijuana establishment or retail marijuana establishment.

“Licensed premises” means the premises specified in a state license supplied for approval of a license pursuant to this chapter.

“Licensee” means a person licensed to operate a medical marijuana establishment or retail marijuana establishment pursuant to the Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, and this chapter.

“Medical marijuana establishment” means a medical marijuana-infused products manufacturer facility, an optional premises cultivation operation, a medical marijuana transporter licensed premises, a medical marijuana off-premises storage facility, or a medical marijuana testing facility.

“Medical marijuana regulations” means the Colorado Department of Revenue, Marijuana Enforcement Division’s Medical Marijuana Code, 1 C.C.R. 212-1, as amended.

“Off-premises storage facility” means an extension of the licensed premises of any medical marijuana optional premises cultivation facility, medical marijuana-infused products manufacturer, medical marijuana testing facility, medical marijuana transporter, retail marijuana cultivation facility, retail marijuana testing facility, retail marijuana product manufacturing facility, retail marijuana store, or retail marijuana transporter that is used for the temporary storage of sealed packages or containers of marijuana or marijuana products and which is physically separated from marijuana establishment’s primary licensed premises.

“Retail marijuana establishment” means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana testing facility, a retail marijuana transporter licensed premises, a retail marijuana off-premises storage facility, a retail marijuana product manufacturing facility, a marijuana hospitality establishment, or a retail marijuana hospitality and sales establishment.

“Retail marijuana regulations” means the Colorado Department of Revenue, Marijuana Enforcement Division’s Retail Marijuana Code, 1 C.C.R. 212-2, as amended.

“State license” means the license or permit granted by the Colorado Department of Revenue, Marijuana Enforcement Division, pursuant to the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, medical marijuana regulations, and the retail marijuana regulations for the operation of a medical marijuana establishment, retail marijuana establishment, or other marijuana business activity regulated by the Colorado Department of Revenue, Marijuana Enforcement Division. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.040 Local licensing authority.

The Town Council is hereby designated as the local licensing authority, and is hereafter referred to in this chapter as the “authority.” The Town Council may, by resolution, delegate its authority set forth in this code to the Town Manager or a new committee to act as the authority. The authority shall have all the powers of a local licensing authority set forth in the Colorado Medical Marijuana Code and Colorado Retail Marijuana Code, or otherwise as provided by law. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.050 License required.

It shall be unlawful for any person to operate a medical marijuana establishment or retail marijuana establishment in the Town 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 and retail marijuana establishment, including co-located, coterminous, or dual-purpose establishments. 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 federal, state or local law. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.060 Classes of licenses authorized – Delivery and other permits.

A. *Licenses.* For the purpose of regulating the cultivation, manufacture, transportation, distribution, offering for sale, and sale of medical and retail marijuana or medical and retail marijuana products, and subject to the provisions of this chapter, the Town authorizes issuance of licenses in each of the following classes:

1. Medical marijuana-infused products manufacturing;
2. Optional premises cultivation;
3. Medical marijuana off-premises storage facility;
4. Medical marijuana transporter, in instances where the applicant seeks the location of a licensed premises in the Town;
5. Medical marijuana testing facility;
6. Retail marijuana store;
7. Retail marijuana cultivation facility;
8. Retail marijuana testing facility;

9. Retail marijuana product manufacturing;
10. Retail marijuana off-premises storage facility;
11. Retail marijuana transporter, in instances where the applicant seeks the location of a licensed premises in the Town;
12. Retail marijuana hospitality and sales establishment; and
13. Marijuana hospitality establishment.

B. *Delivery Permits.* A licensed retail marijuana store or retail marijuana transporter with a valid marijuana delivery permit may deliver retail marijuana and retail marijuana-infused products to private residences in the Town; provided, that such delivery complies with the Colorado Retail Marijuana Code, retail marijuana regulations, this chapter, and any other applicable state or Town law or regulation, and upon obtaining a delivery permit pursuant to this chapter. Delivery permits may be obtained following the same procedures as licenses set forth herein, and shall be subject to the same application requirements, review procedures, and operation standards as applicable to licenses for medical and retail marijuana establishments, except as otherwise set forth herein. The following provisions shall also apply:

1. Delivery permit applications shall not be required to comply with the location limitations nor the application requirements in PMC [6.11.080\(B\)\(3\)](#), [\(B\)\(4\)](#), and [\(B\)\(5\)](#).
2. All retail marijuana and retail marijuana-infused products delivered to any location in Town are subject to Town sales tax. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.070 Location limitations of medical and retail marijuana establishments.

A. Medical marijuana establishments and retail marijuana establishments with licensed premises shall only be located in zone districts permitting such uses, as set forth in the schedule of uses in PMC Title [15](#). Prior to receiving a license pursuant to this chapter for a medical marijuana establishment or retail marijuana establishment, applicant shall be required to demonstrate or obtain approval for location of the establishment as set forth in PMC Title [15](#).

B. No medical marijuana establishment or retail marijuana establishment shall be located or operate within five hundred feet (500') of any existing public or private school.

C. No retail marijuana store, retail marijuana hospitality and sales establishment, or marijuana hospitality establishment shall be located within one hundred fifty feet (150') of any other retail marijuana store, retail marijuana hospitality and sales establishment, or marijuana hospitality establishment except for coterminous or shared licensed premises or co-located licensed operations permitted by the Colorado Department of Revenue, Marijuana Enforcement Division.

D. The distances described in this section shall be measured using a route for direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossing and with the observance of traffic regulations and lights, from the nearest property line of the school or other medical marijuana establishment or retail marijuana establishment property to the nearest public entrance of the structure of the proposed licensed premises. (Ord. 782 §2 (Exh. A), 2020)

### 6.11.080 Licensing procedure.

A. *Generally.* All local license applications shall be filed with the Town Clerk. The authority shall consider and act upon all local license applications filed with the Town Clerk in accordance with the standards and procedures set forth in this chapter. The authority shall deny any application for a license that is not in full compliance with the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, medical marijuana regulations, retail marijuana regulations, this chapter, and any other applicable state or Town law or regulation. The authority shall also deny any application that contains any false or incomplete information.

B. *Application Requirements.* Except as set forth herein, all applications for local licensing of medical marijuana establishments and retail marijuana establishments shall include the following:

1. *Application Form and Verification.* A completed application form to be provided by the Town Clerk. The contents of the application shall be verified, under oath, by each person or entity holding an ownership interest in the proposed medical marijuana establishment or retail marijuana establishment.
2. *State Application and Materials to Comply with State Law.* Any such materials required to be provided to the state of Colorado in order to receive a state license, including, by way of example, completed application forms for state license, certificate of good standing, organizational documents, disclosures related to ownership of the proposed business, proof of possession of the licensed premises, fingerprints of the applicants, building plans, security plans, sign plans, and lighting plans.
3. *Area Map.* An area map of the Town that demonstrates that the proposed licensed premises complies with Town zoning and location restrictions by depicting the proximity of the proposed licensed premises to any school, retail marijuana store, retail marijuana hospitality and sales establishment, or marijuana hospitality establishment.
4. *Zoning.* Proof that the proposed medical marijuana establishment or retail marijuana establishment will be located in a location that is compliant with the zoning and land use laws, or that the necessary land use application(s) has been made.
5. *Proof of Possession of the Licensed Premises.* The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the applicant is, or will be, entitled to possession of the proposed licensed premises as a medical marijuana establishment or retail marijuana establishment for a period of at least one (1) year from the date of issuance of the license.

6. *Operating Plan.* An operating plan for the proposed licensed premises which includes a description of the products and services to be provided by the proposed licensed premises.
7. *Fees.* Payment of all required fees as set forth in Appendix [A](#) of this code, together with an agreement to reimburse consultant fees on a form provided by the Town, which are nonrefundable.
8. *Statements of Character.* A statement of whether or not any person holding any ownership interest in the proposed medical marijuana establishment or retail marijuana establishment has (a) ever been denied an application for a medical marijuana establishment or retail marijuana establishment license by the state or any other local jurisdiction in the state, or has ever had such a license suspended or revoked; and (b) ever been convicted of a felony or has ever completed any portion of a sentence due to a felony charge.
9. *Additional Information Requested.* Upon request by the Town Clerk, Town Manager or the authority, an applicant must provide additional information or documents required to process and investigate the application. The additional information or documents must be provided within seven (7) days of the request; however, this deadline may be extended for a period of time commensurate with the scope of the request.

Applications for renewal of a license, transfers of ownership, changes in trade name, and other application types set forth in the fee schedule where no material change in the characteristics of the licensed premises has occurred shall not require the items enumerated in subsections [\(B\)\(3\)](#) to [\(B\)\(6\)](#) of this section, or otherwise as directed by Town Clerk.

C. *Initial Review.* Within thirty-five (35) days of submission of an application, the Town Manager or its designee shall conduct an initial review of the application as set forth below. The Town Manager may, due to press of business, extend the initial review period for additional periods of time as needed. Notice of such extension shall be provided to the applicant. Such initial review includes the following:

1. *Completeness and Location Review.* The Town Manager or designee shall review the application to determine whether: (a) the application is complete; and (b) the proposed licensed premises location is compliant with the zoning, land use laws, distance requirements, and restrictions on location, or that the necessary land use application(s) has been or will be made. Land use applications may be processed concurrently with the application for a license.
2. *Incomplete Applications.* If the application is deemed incomplete, the Town Manager shall notify the applicant in writing of the missing and required materials or information. The applicant shall have seven (7) days from such notice to provide the missing materials or information, or the application will be deemed automatically denied unless extended by the Town Manager in his or her sole discretion.
3. *Referral of Application.* The Town Manager shall provide a copy of the completed application to all Town departments, consultants and referral agencies for review of compliance with the provisions of this chapter, other provisions of the Town code, and any other applicable law, rule or regulation.

4. *Setting Public Hearing.* When an application is deemed complete under this initial review, the Town Manager shall notify the applicant of such fact and schedule a public hearing on the application in front of the authority.

D. *Public Hearing.* Upon completion of initial review, the following public hearing procedures shall apply:

1. *Public Notice.* The applicant shall be required to provide notice of the public hearing at its sole cost and expense. Such notice shall be made not less than fifteen (15) days prior to the scheduled public hearing by: (a) publishing a legal notice in a newspaper of general circulation within the Town; (b) posting a notice of public hearing in a conspicuous place on the proposed licensed premises viewable from a public right-of-way in a size and form approved by the Town Manager; and (c) mailing notice via certified mail, return receipt requested, to the owners of all properties within two hundred feet (200') of the property line of the proposed licensed premises. The notice shall state the type of license applied for, the address of the proposed licensed premises, 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.

2. *Quasi-Judicial Procedures.* Except as may be expressly set forth in this chapter, all hearings for a license shall be conducted pursuant to quasi-judicial procedures. The authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

3. *Required Findings.* In order to approve a license, the authority must make the following findings:

- a. The application is complete and all fees have been paid;
- b. Public notice was properly provided;
- c. The applicant is qualified under the provisions of this chapter and is of good moral character;
- d. The proposed licensed premises complies with the design and performance requirements of the Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, the medical marijuana regulations, the retail marijuana regulations, and this chapter, as applicable;
- e. The state license has been approved, conditioned on the granting of the license by the Town, or has been applied for; and
- f. The applicant has otherwise complied with all applicable provisions of this chapter.

4. *Discretion of Authority – Review Criteria.* The authority shall either deny an application or approve the application with or without conditions. In making such decision, the authority may consider:

- a. The number, type, and availability of the same type of medical marijuana establishment or retail marijuana establishment in the Town;

- b. The proximity of the subject license to the same class of medical marijuana establishment or retail marijuana establishment in the Town;
- c. The proximity of the subject license to other medical marijuana and retail marijuana establishments;
- d. The degree of concentration of medical marijuana and retail marijuana establishments;
- e. The reasonable requirements of the neighborhood;
- f. The potential impacts to the neighborhood by the granting of the subject license; and
- g. If in the same location where any medical marijuana establishment or retail marijuana establishment is or has been previously licensed, if there is evidence that the previously licensed premises was operated in a manner that adversely affects the public health, welfare or safety of the residents of the Town.

5. *Written Decision.* Within thirty-five (35) days after the date of the public hearing, a copy of such decision shall be hand delivered or sent by certified mail to the applicant at the address shown in the application. The Town shall notify the state licensing authority of such decision.

6. *Good Cause.* The authority has authority to refuse to issue any medical marijuana establishment or retail marijuana establishment license for good cause, subject to judicial review. The term “good cause” means that the applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of the Colorado Retail Marijuana Code or any rules or regulations promulgated pursuant thereto, or this chapter or rules or regulations promulgated pursuant to this chapter; the applicant has failed to comply with any special terms or conditions that were placed upon the licensee by the Town; or the proposed licensed premises cannot be supported by the existing infrastructure of the Town. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.090 Additional standards and requirements for medical and retail marijuana establishments.

A. *Activation of License.* Prior to operation of the licensed premises, the license holder shall provide the Town with the licensee’s state license. Any approved medical marijuana establishment or retail marijuana establishment shall be open for business within one (1) year of the date of the approval and failure to do so shall be grounds for suspension, revocation, or nonrenewal of the license.

B. *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 this chapter.

C. *Posting of License.* Every license issued by the Town for a medical marijuana establishment 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. 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.

D. *Hours of Operation.* All medical marijuana establishments and retail marijuana establishments may operate only from the hours of 9:00 a.m. to 12:00 a.m. midnight, Monday through Sunday.

E. *Mobile Premises.* A marijuana hospitality establishment with a mobile premises must also have or be associated with a retail marijuana establishment with licensed premises that is not mobile. The authority may place conditions on the areas within Town in which marijuana hospitality establishment's mobile premises may operate.

F. *Performance Standards.* In addition, all medical marijuana establishments and retail marijuana establishments shall comply with the following requirements:

1. No licensed premises shall be managed by any person other than the licensee, establishment manager listed on the application, or a licensed business operator. Such licensee or establishment manager shall be responsible for all activities that occur within the licensed premises.
2. There shall be posted in a conspicuous location in each medical marijuana establishment and retail marijuana establishment legible signs which include warning statements set forth in Rule 1006 C.1.i of the Colorado Department of Revenue, Marijuana Enforcement Division, Permanent Rules Related to the Colorado Retail Marijuana Code, as amended.

G. *Method of Storage and Transportation.*

1. It shall be unlawful to store medical or retail marijuana in any location other than a medical marijuana-infused products manufacturing facility, optional premises cultivation operation, medical marijuana testing facility, medical marijuana transporter licensed premises, medical marijuana off-premises storage facility, retail marijuana cultivation facility, retail marijuana products manufacturing facility, retail marijuana testing facility, retail marijuana transporter licensed premises, or retail marijuana off-premises storage facility.
2. A transporter licensed premises may be used only for storage or transportation of the finished goods inventory of a licensed medical or retail marijuana establishment.
3. An off-premises storage facility may be used only for storage of finished goods inventory of the associated medical or retail marijuana establishment.
4. It shall be unlawful for any person to possess unsealed packages or containers of marijuana or marijuana product, to open sealed packages or containers of marijuana or marijuana product, or to

repackage marijuana or marijuana product in any transporter licensed premises or off-premises storage facility.

5. It shall be unlawful for any person to sell, cultivate, manufacture, process, test, or consume any marijuana or marijuana product in any transporter licensed premises or off-premises storage facility.

H. *Inspection.* The licensee and/or owner of any licensed premises shall permit representatives of the Colorado Marijuana Enforcement Division, the Town's Police Department, the Garfield County Public Health Department, the Town Manager or his designee, or the Grand Valley Fire Protection District to inspect the premises of a medical marijuana establishment and/or retail marijuana establishment for the purpose of ensuring compliance with this chapter, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the medical marijuana regulations, or the retail marijuana regulations, as applicable.

I. *Unlawful Acts.* It shall be unlawful for any licensee to fail to comply with the requirements of the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, medical marijuana regulations, retail marijuana regulations, this chapter, and any other applicable state or Town law or regulation for the operation of the medical marijuana or retail marijuana establishments. In addition to other remedies provided by this chapter, such unlawful acts shall constitute violations of the Town Code (Class A municipal offense) and are subject to the general penalty provisions thereof. Each day that a violation continues shall be considered a separate violation. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.100 Transfer of ownership – Change of location – Modification of premises.

Full transfer or partial transfer of ownership, any change of location, and any modification of premises of any local license issued pursuant to this chapter shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, medical marijuana regulations, and retail marijuana regulations, as applicable. The Town shall administer transfers of ownership of local licenses, changes in location, and modifications of premises in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirements set forth in this chapter shall apply to all applications for full or partial transfer of ownership of any local license and changes of location, and modifications of premises which seeks to increase facility size. The submission or pendency of an application for full or partial transfer of ownership, change of location, or modification of premises does not relieve the license holder from the obligation to properly apply to renew such license. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.110 Renewal of license.

A. All applications for renewal of medical marijuana establishment licenses and retail marijuana establishment licenses shall be on forms provided by the state licensing authority and the authority, and must

be submitted to the Town Clerk prior to the license expiration date, together with the required renewal application fee, as established by the Town.

B. Upon receiving the renewal application, the Town Clerk shall assemble the applicant's file containing reports from staff regarding the applicant or the premises for the preceding year. Unless there is evidence to the contrary in the applicant's file or otherwise, it will be presumed that the licensed premises are in compliance with the provisions of state statutes and Town regulations, and that the applicant continues to be qualified under the provisions of this chapter. If these presumptions apply, the application for renewal shall be recommended for approval by the Town Clerk and set for authority consent at the next Town Council meeting. All successful applicants shall be subject to applicable license fees.

C. If there is evidence to rebut the presumptions in subsection (B) of this section which otherwise arise, the Town Clerk shall immediately notify the licensee in writing of the objections to the renewal application and set a public hearing. The written notice shall be mailed by certified mail to the applicant, shall state generally the grounds for staff's recommendation of nonrenewal, and shall provide the date, time and place of the hearing to show cause for nonrenewal. Notice of the hearing must also be conspicuously posted on the premises for a period of ten (10) days prior to the hearing. The hearing shall be conducted in the same manner as provided for hearings on revocation or suspension of the type of license involved.

D. Licenses may continue as valid until the renewal application is reviewed by the authority. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.120 License suspension or revocation.

A. The authority shall conduct a license suspension or revocation hearing and may, in its sole discretion, suspend or revoke a license if the authority determines that a licensee has:

1. Violated or is not in compliance with this chapter, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the medical marijuana regulations, the retail marijuana regulations, as applicable, 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 licensed premises that is unlawful under the laws of the state or the Town.
4. Failed to file required reports or to furnish such other information as may be reasonably required by the Town under the authority vested in it by the Colorado Retail Marijuana Code or the retail marijuana regulations.

B. In the event the state license is suspended or revoked for any reason, the license issued under this chapter shall automatically be suspended for the same period or revoked without any further action by the authority.

C. In determining the action to be taken as provided in this section, the authority shall consider the following factors:

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 (1) 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 damage.
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) occurred.
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 conceal 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.
19. Whether any other good cause exists for suspension or revocation. (Ord. 782 §2 (Exh. A), 2020)

### 6.11.130 Suspension or revocation hearings.

- A. The authority shall conduct hearings for suspension or revocation of licenses granted pursuant to this chapter in accordance with quasi-judicial hearing standards. The authority shall make findings of fact and conclusions concerning the revocation or suspension of a license. The authority shall transmit a copy of the final findings of fact and conclusions to the licensee as provided hereafter and to the state licensing authority.
- B. Upon commencement of suspension or revocation proceedings, the Town Manager or its designee shall set a time and place for a hearing of the matter before the authority.
- C. The Town Manager 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 certified mail to the last address of the licensee as shown in the records of the Town, at least fifteen (15) days prior to the hearing. In addition to such service, a copy of such notice shall be posted on the principal entrance of the licensed premises.
- D. At the hearing, the licensee shall be afforded an opportunity to be heard, present evidence, cross-examine witnesses, and offer evidence with respect to the alleged violations.
- E. All evidence shall be recorded by electronic recording device. (Ord. 782 §2 (Exh. A), 2020)

### 6.11.140 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 licensee by certified mail to the last address of the licensee as shown in the records of the Town. In addition to such service, a copy of such order shall be posted on the principal entrance of the licensed premises.
- B. The order shall be effective immediately upon service thereof, except in the case of suspensions so as to allow petition for permission to pay a fine in lieu of suspension, as provided herein. The order shall provide that a petition for payment of a fine in lieu of suspension shall be made within seven (7) days of service of the order and that the suspension will go into effect on the day following the seventh day. Service of such order shall be complete upon mailing or personal service.
- C. A suspension or revocation decision of the authority is reviewable only by the Garfield 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.
- D. When the authority revokes a license, the revocation shall continue for one (1) year from the date revocation became effective and the licensee shall not be issued a new or different class of license for one (1)

year for the licensed premises that is subject of the revocation or for any other premises within the Town, subject to new application under this chapter. (Ord. 782 §2 (Exh. A), 2020)

### 6.11.150 Petitions on suspended licenses.

A. Whenever a decision of the authority suspending a license becomes final, whether by failure of the licensee to appeal the decision, stipulation between the authority and the licensee that such decision is final, or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition the authority for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon receipt of the petition, the authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied and in consideration of whether:

1. The public welfare and morals will not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purpose;
2. The books and records of the licensee are kept in such a manner that the loss of sales or other impacts that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
3. The licensee has not had its license suspended or revoked by the authority, nor had any suspension stayed by payment of a fine to the authority, during the two (2) years immediately preceding the date of the complaint or request which resulted in a final decision to suspend the license.

B. The fine imposed pursuant to subsection [\(A\)](#) of this section shall not be less than five hundred dollars (\$500.00) nor greater than one hundred thousand dollars (\$100,000.00), and the authority may consider, among other factors, the licensee's estimated gross revenues from sales or other impacts during the period of the proposed suspension in determining the amount of the fine.

C. The authority may, in its sole discretion, enter into a stipulation and order with a licensee imposing a fine in lieu of suspension of a license contemporaneous with entering into a stipulation and order with a licensee containing necessary findings, if any.

D. Payment of any fine accepted in lieu of allowing a license suspension to become operable shall be in the form of cash, certified check or cashier's check. Said funds shall be deposited into the general fund of the Town. Upon receipt of the fine, the authority shall enter an order permanently staying the operation of the suspension.

E. If the authority does not order the suspension permanently stayed, the suspension shall go into effect on the operative date of suspension set by the authority. Notwithstanding the foregoing, the authority may grant such

stays of the suspension proceedings as are necessary for it to complete its investigation and review under subsection [\(A\)](#) of this section. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.160 Effect of suspension or revocation.

Upon the effective date of suspension or revocation of any license, the licensee shall immediately cease and desist further operation or activity at the subject licensed premises. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.170 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 Manager shall have the authority to summarily order the cessation of business and the closure of the licensed premises pending a hearing on whether to suspend or revoke the license. Unless waived by the licensee in writing, the authority shall conduct a hearing upon the summary order and the activity giving rise to such order within fifteen (15) days after the Town Manager 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 licensee personally or by mailing certified mail to the last address of the licensee as shown in the records of the Town. At such hearing the licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.180 Injunction.

Any person who operates or causes to be operated a medical marijuana establishment 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. 782 §2 (Exh. A), 2020)

#### 6.11.190 No Town liability – Indemnification.

By accepting a license issued pursuant to this chapter:

A. The licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of

the licensed premises' owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

B. All licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, 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 in any manner connected with the operation of the retail marijuana establishment that is the subject of the license, unless the act or omission by the officer, elected official or employee that causes the loss or damage is willful and wanton, as provided in the Colorado Governmental Immunity Act, § [24-10-101](#) et seq., C.R.S. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.200 Other laws remain applicable.

A. To the extent the state adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana, the additional or stricter regulation shall control the establishment or operation of any medical marijuana establishment or retail marijuana establishment in the Town. 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 revocation or suspension of any license issued under this chapter.

B. Any licensee may be required to demonstrate, upon demand by the Town Manager 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 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 for any person in regard to any potential criminal liability the person may have under federal law for the cultivation, possession, sale, distribution or use of marijuana. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.210 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. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.220 Administrative regulations.

The Town Council is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this chapter. (Ord. 782 §2 (Exh. A), 2020)

#### 6.11.230 Use of sales tax revenue – Schools.

The Town Council will consider as part of its annual budgeting the use of up to one percent (1%) of sales tax revenue generated from medical marijuana establishments or retail marijuana establishments to address marijuana use in the Town's schools. (Ord. 782 §2 (Exh. A), 2020)

**The Parachute Municipal Code is current through Ordinance 798, and legislation passed through October 21, 2021.**

Disclaimer: The town clerk's office has the official version of the Parachute Municipal Code. Users should contact the town clerk's office for ordinances passed subsequent to the ordinance cited above.

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