

**TOWN OF DOLORES, COLORADO**

**ORDINANCE NO. 546 Series 2020**

**AN ORDINANCE AMENDING CHAPTER 5.16 OF THE DOLORES MUNICIPAL CODE CONCERNING THE LICENSING OF MEDICAL MARIJUANA CENTERS AND EMERGENCY ORDINANCE 540 Series 2019 PROHIBITING MARIJUANA BUSINESS AND ENACTING A COMPREHENSIVE ORDINANCE FOR THE REGULATION AND TAXATION OF ALL MEDICAL AND RECREATIONAL MARIJUANA ESTABLISHMENTS IN THE TOWN OF DOLORES INCLUDING SALES, CULTIVATION, MANUFACTURING AND TESTING BUSINESSES.**

WHEREAS, in the November 2000 general election, the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution ("Amendment 20") which authorizes the use of medical marijuana for the treatment of debilitating medical conditions. Amendment 20 added Section 14 to Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law for the activities described in Amendment 20; and

WHEREAS, in the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution ("Amendment 64") which authorizes the limited possession and personal cultivation of marijuana by adults aged 21 years or older and further established the only means by which a person may commercially cultivate marijuana, produce marijuana products and sell marijuana or marijuana products to persons aged 21 years or older; and

WHEREAS, notwithstanding the adoption of Amendment 20 and Amendment 64, marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use, or distribute marijuana, even for medical use as contemplated by Amendment 20 or personal use as contemplated by Amendment 64, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible; and

WHEREAS, on July 1, 2010, the Colorado General Assembly enacted House Bill 10-1284, thereby establishing statutory rules, regulations and licensing requirements related to the cultivation, manufacture and sale of medical marijuana and medical marijuana-infused products; and

WHEREAS, House Bill 10-1284 added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Marijuana Code, which established a dual licensing framework for medical marijuana facilities, introduced new terminology with respect to such facilities, identified the types of license that may be issued within the State of Colorado, and provided for subsequent rule-making authority by the Colorado Department of Revenue to implement the legislation; and

WHEREAS, Section 12-43.3-106 of the Colorado Marijuana Code specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses," and Section 12-43.3-310(1) specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana- infused products manufacturers' licenses ... based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article's;" and

WHEREAS, on July 1, 2013, the Colorado General Assembly enacted house bill 13-1317, thereby establishing statutory rules, regulations and licensing requirements related to the cultivation, manufacture, testing, research, development and sale of marijuana and marijuana-infused products; and

WHEREAS, House Bill 13-1317 added a new article 43.4 to title 12 of the Colorado Revised Statutes, to be known as the Colorado Marijuana Code, (later re-codified under Title 44) which establishes a dual licensing framework for marijuana facilities, introduces new terminology with respect to such facilities, identifies the types of license that may be issued within the State of Colorado, and provides for subsequent rule-making authority by the Colorado Department of Revenue to implement the legislation; and

WHEREAS, pursuant to subsection 5(f) of Section 16 of Article XVIII of the Colorado Constitution and the provisions of 44-11-301 and 44-12-301 C.R.S., a locality may enact ordinances or regulations, not in conflict with the Constitution or Colorado Statutes, governing the time, place, manner and number of marijuana business operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the locality in accordance with all requirements of Article 4 of Title 24 of the Colorado Administrative Procedure Act or any successor provision; establishing a schedule of annual operating, licensing, and application fees for marijuana business, and establishing civil penalties for violation of an ordinance or regulation governing the time, place, manner, and number of a marijuana business that may operate in such locality; and

WHEREAS, a locality may also prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and/or retail marijuana Centers through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana Centers must appear on a general election ballot during an even numbered year. Further by enacting this Ordinance, the Town of Dolores does not waive or impair its statutory or constitutional authority to restrict the time, place, manner and number of marijuana businesses or ban marijuana businesses as described in the Constitution; and

WHEREAS, on July 1, 2013, the Colorado General Assembly enacted House Bill 13-1318, thereby referring Proposition AA to the voters of Colorado establishing a retail sales tax and excise tax on non-medical marijuana and in connection therewith, establishing regulations for assessment and collection of such taxes and the ability of a municipal government, pursuant to section 29-2-106 C.R.S. to impose a tax on marijuana to be used for local and municipal purposes; and

WHEREAS, in the November 2013 general election, the voters of the State of Colorado adopted Proposition AA which imposes an excise tax of up to 15% on marijuana at the point of wholesale transfer and a special sales tax on marijuana of up to 10%, 15% of which is returned to the general fund of the jurisdiction in which the tax was collected; and

WHEREAS, the Board of Trustees of the Town of Dolores carefully considered the provisions of the Colorado Marijuana Code, the Colorado Marijuana Code, Amendment 20, Amendment 64 and the impact of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' facilities on the health, safety, and welfare of the Town and the

inhabitants thereof, and desires to adopt reasonable licensing regulations as contemplated by the Colorado Marijuana Code and the Colorado Marijuana Code; and

WHEREAS, the citizens of the Town of Dolores at a municipal election held on April 7, 2020 approved four referred ballot questions permitting the Town Trustees to enact reasonable regulations permitting marijuana medical and retail sales, cultivation, manufacturing and testing; and approved an occupation tax on marijuana sales and an excise tax on cultivation.

WHEREAS, the Board of Trustees has further determined that it is in the best interests of the health, safety and welfare of the inhabitants of the Town to exercise its express statutory authority to establish reasonable regulations governing marijuana businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF DOLORES:

SECTION 1. Emergency Ordinance 540 Serries 2019 is repealed and Chapter 5.16 of the Dolores Municipal Code is hereby repealed and readopted to read in full as follows together with Appendix A, referenced herein and attached hereto:

## **THE DOLORES MARIJUANA CODE**

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## *ARTICLE I Licensing and Regulation of Medical Marijuana Businesses*

### *Sec. 1.1. Legislative intent and purpose.*

1. *Legislative intent: The Board of Trustees of the Town intends to regulate the use, acquisition, cultivation, production and distribution of medical marijuana in a manner consistent with Article XVIII, Section 14 of the Colorado Constitution (the Medical Marijuana Amendment).*
  - a. *The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver.*
  - b. *House Bill 10-1284, signed by the Governor on June 7, 2010, enacts Article 43.3 of Title 12, C.R.S., (the Colorado Marijuana Code) which imposes statewide regulations pertaining to the use, acquisition, cultivation, production, sale and distribution of medical marijuana and medical marijuana-infused products within the State.*

- c. Nothing within this Article is intended to promote or condone the production, cultivation, use, sale or distribution of medical marijuana other than in compliance with applicable state law.*
- 2. Purpose: The purpose of this Article is to implement the Medical Marijuana Amendment in a manner consistent with Article 10 of Title 44, C.R.S., to protect the public health, safety and welfare of the residents and patients of the Town by prescribing the manner in which medical marijuana businesses can be conducted within the Town. Further, the purpose of this Article is to:*
  - a. Provide for the safe sale and distribution of medical marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Medical Marijuana Amendment.*
  - b. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and neighborhood and patient safety, security for businesses and their personnel and other health and safety concerns.*
  - c. Limit the number of medical marijuana businesses that can be established within the Town based on the needs of the community and the desires of the inhabitants.*
  - d. Impose fees to cover the costs incurred by the Town for licensing and regulating medical marijuana businesses.*
  - e. Adopt a mechanism for monitoring compliance with the provisions of this Article.*
  - f. Create regulations that address the particular needs of the patients and residents of the Town and coordinate with laws enacted by the State that pertain to such matters.*
  - g. Facilitate the implementation of the Medical Marijuana Amendment without exceeding the authority granted to the Town by such amendment.*
  - h. The approval of any license, renewal or change to any existing license by the Local Licensing Authority is expressly contingent upon approval of the applicant by the State Licensing Authority.*

### *Sec. 1.2. Definitions.*

- 1. The following words and phrases used in this Article shall have the following meanings unless the context clearly indicates otherwise:*
  - a. Adjacent grounds means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in such areas, including but not limited to lights, signs and security devices.*
  - b. Business manager means the individual designated by the owner of a medical marijuana business and registered with the Town as the person responsible for all operations of the business during the owner's absence from the business premises.*
  - c. Character and record includes all aspects of a person's character and record, including but not limited to moral character; criminal record, including serious traffic offenses; record of previous sanctions against liquor licenses, gambling licenses or medical*

*marijuana licenses, which the person owns, in whole or in part, in which the person serves as a Controlling Beneficial Owner, manager or employee; education, training, experience; civil judgments entered against the person; truthfulness, honesty; and financial responsibility. The conviction of any person for an offense, shall not, in itself, be grounds for a finding of a bad character and record if such person demonstrates that he or she has been rehabilitated in accordance with Section 24-5-101, C.R.S. In the event the Local Licensing Authority considers information concerning the criminal history of a person, the Local Licensing Authority shall also consider any information provided by an applicant regarding such criminal history records, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction and the time of consideration of a license application.*

- d. Contiguous means located within the same building as the medical marijuana center or medical marijuana-infused products manufacturer, located in a separate building on the same parcel of land as the medical marijuana center or medical marijuana-infused products manufacturer, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the medical marijuana center or medical marijuana-infused products manufacturer is located.*
- e. Good cause shall have the same meaning as set forth in Section 44-10-103(17), C.R.S.*
- f. Laws of the State of Colorado shall mean and include Section 14 of Article XVIII of the Colorado Constitution; the Colorado Marijuana Code, Article 10 of Title 44 C.R.S.; other Colorado statutes, including but not necessarily limited to Section 18-18-406(3), C.R.S., and Section 25-1.5-106, C.R.S.; applicable regulations promulgated by the Colorado Department of Public Health and Environment and the State Licensing Authority; and all applicable final decisions of Colorado's appellate courts.*
- g. Licensed premises means the premises specified in an application for a license under this Article which are owned or in possession of the licensee, and within which the licensee is authorized to cultivate, manufacture, distribute or sell medical marijuana in accordance with the provisions of this Article and the laws of the State.*
- h. Licensee shall have the same meaning as set forth in Section 44-10-103, C.R.S.*
- i. Local Licensing Authority shall mean the Board of Trustees of the Town.*
- j. Medical marijuana shall have the same meaning as set forth in Section 44-10-103, C.R.S.*
- k. Medical marijuana business shall mean a person holding a medical marijuana center license, as defined in Section 44-10-501, C.R.S.; a medical marijuana-infused products manufacturer license, as defined in Section 44-10-503, C.R.S.; and/or an optional premises cultivation operation license, as defined in Section 44-10-502, C.R.S. For the purposes of this Article, a patient who cultivates, produces, possesses or transports medical marijuana or a primary caregiver who cultivates, produces, sells, distributes, possesses, transports or makes available marijuana in any form to one (1) or more patients shall not be deemed a medical marijuana business .*
- l. Medical marijuana center shall have the same meaning as set forth in Section 44-10-103, C.R.S.*



- m. *Medical marijuana-infused products manufacturer shall have the same meaning as set forth in Section 44-10-103, C.R.S.*
  - n. *Medical use shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be fully defined in any applicable state law or regulation.*
  - o. *Optional premises cultivation operation shall have the same meaning as set forth in Section 44-10-103, C.R.S.*
  - p. *Patient shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.*
  - q. *Person means a natural person, partnership, association, company, corporation, Limited Liability Company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.*
  - r. *Premises means a distinct definite location which may include a building, a part of a building, a room or any other definite contiguous area.*
  - s. *Primary caregiver shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.*
  - t. *Controlling Beneficial Owner means:*
    - i. *In the case of any business entity, including any general or limited partnership, corporation, limited liability company or other entity, any person who has five percent (5%) or greater interest in the ownership of the entity and any person who has the day-to-day authority to or actually does manage the entity's financial affairs.*
    - ii. *In the case of a corporation, the persons described for any entity described in Subparagraph i and the president, vice president, secretary, chief executive officer, chief financial officer and any person who holds five percent (5%) or more of the capital stock of the corporation.*
    - iii. *In the case of a limited liability company, the persons described for any such entity in Subparagraph i. above and any member of the limited liability company.*
    - iv. *In the case of a sole proprietorship, the individual owner.*
    - v. *Where this Code requires the production of the name and contact information of Controlling Beneficial Owners, the Town may, in its discretion require an applicant to disclose only the identities of Controlling Beneficial Owners holding a ten percent (10%) or greater interest in the business entity.*
  - u. *Serious traffic offense means any driving offense carrying eight (8) points or greater under Section 42-2-127, C.R.S., or the substantial equivalent of such events in any other state.*
  - v. *State Licensing Authority means the authority created by Section 44-10-201, C.R.S., for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of medical marijuana in this State.*
2. *Unless defined in this Article or the context clearly indicates otherwise, any word or term used in this Article that is defined in Article XVIII, Section 14(1)(f) of the Colorado Constitution*

or in the Colorado Marijuana Code shall have the same meaning that is ascribed to such word or term in the Colorado Constitution or in the Colorado Marijuana Code.

### *Sec. 1.3 License required.*

1. *It shall be unlawful for any person to operate a medical marijuana business without first having obtained a license to operate pursuant to the provisions of this Article, having paid the fees therefor, as well as having obtained a license to operate from the State Licensing Authority. The licensing requirements apply to all medical marijuana businesses that exist on the effective date of this Article and any medical marijuana businesses established after such effective date.*
2. *Any person violating this Section commits a municipal offense punishable by up to ninety (90) days incarceration, up to a four-hundred-ninety-nine dollar fine or by both such incarceration and fine. A person committing a violation shall be guilty of a separate offense for each day or part thereof during which the offense is committed or continued to be permitted by such person and shall be punished accordingly.*
3. *Pursuant to the provisions of Article 10 of Title 44, C.R.S., medical marijuana businesses shall be licensed by the Town in one (1) or more of the following categories:*
  - a. *Medical marijuana business, as defined in Section ) 44-10-103(35), C.R.S. Such business shall meet all criteria and requirements of Section 44-10-501, C.R.S., as well as all other regulatory requirements applicable to medical marijuana businesses set forth within this Article, and within Article 10 of Title 44, C.R.S.*
  - b. *Medical marijuana-infused products manufacturer, as defined in Section 44-10-103, C.R.S. Such business shall meet all criteria and requirements of Section 44-10-503, C.R.S., as well as all other regulatory requirements applicable to medical marijuana-infused products manufacturing set forth in this Article and within the laws of the State.*
  - c. *Medical marijuana cultivation facility license, as defined in Section 44-10-502, C.R.S. Such cultivation operation shall meet all criteria and requirements of Section 44-10-502, C.R.S., as well as all other regulatory requirements applicable to optional premises cultivation operations set forth in this Article and within the laws of the State.*
4. *The licensing requirements set forth in this Article shall actually be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any federal law, the laws of the State, or local laws, including, but not by way of limitation, a business license, retail sales tax license, retail food establishment license or any applicable zoning permits or building permits.*
5. *The Town may approve a license contingent on the State Licensing Authority issuing a license, but no license for a medical marijuana business shall actually be issued by the Town until a license for such use, at the location designated in the application, has been issued by the State Licensing Authority.*
6. *The issuance of a license pursuant to this Article does not create a defense, exception or provide immunity to any person in regard to any potential federal criminal liability the person may have for the production, distribution or possession of marijuana.*
7. *Every license issued under this Article confers only a limited and conditional privilege subject to the requirements, conditions and limitations of this Article and state law. The license does*

- not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of the Board of Trustees or the electors of the Town, without any compensation to a licensee. Every license approved or issued under this Article shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the local option described in Section 44-10-104, C.R.S., and any other future ordinances adopted by the electors of the Town or the Board of Trustees. Nothing contained in this Article grants to any licensee any vested right to continue operating under the provisions of this Article as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.*
8. *A separate license shall be required for each location from which a medical marijuana business is operated.*
  9. *All medical marijuana business licenses issued by the Town shall be valid for a period of one (1) year from the date such license is issued. Renewal applications shall be filed at least forty-five (45) days prior to the expiration date of the existing license.*
  10. *Licensees shall report each transfer or change of ownership interest, change in business manager, change in Controlling Beneficial Owners or change in employees on forms provided by the Town Clerk. An application for a change of manager shall be submitted to the Town Clerk at least thirty (30) days prior to any such change to provide necessary time for the background check and processing of the application pursuant to Section 6-90 below.*

#### *Sec. 1.4 Local Licensing Authority.*

1. *For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of medical marijuana within the Town, there is hereby created the Medical Marijuana Local Licensing Authority of the Town of Dolores. The Board of Trustees shall serve as the Local Licensing Authority.*
2. *The Local Licensing Authority shall have such powers and duties as are provided for in this Article and the Colorado Marijuana Code.*
3. *The Local Licensing Authority shall be assisted by the Town Attorney, the Town Marshal, the Town Clerk and such other personnel as may be designated by the Town Manager in the performance of the powers and duties of the Local Licensing Authority.*

#### *Sec. 1.5 General licensing procedure and regulations.*

1. *The Town Clerk shall have authority to promulgate and employ reasonable regulations associated with the making and processing of applications for medical marijuana business licenses. The Town Manager also may promulgate regulations concerning the processes and procedures associated with the issuance, renewal, denial, suspension or revocation of such licenses that supplement and are not inconsistent with the provisions of this Article. Such regulations shall be written and shall become effective when copies of the same have been provided to the Board of Trustees and made available to the public, or upon a later effective date set forth in the regulations.*

### *Sec. 1.6. Application and license fees.*

1. *Application and license fees (which are in addition to any state license fees, whether or not shared with the Town and in addition to any applicable fees required under the Town Land Use Code and Building Code) for medical marijuana businesses shall be as follows:*
  - a. *New license application fees:*
    - i. *First submittal: \$1,000.00.*
    - ii. *For associated facilities or licenses: \$500.00.*
  - b. *Fingerprint-based criminal background check fee, per person checked: actual cost.*
  - c. *Renewal application fee: \$500.00.*
  - d. *Late renewal fee: \$500.00.*
  - e. *Change of business manager: \$150.00 (plus actual fingerprint-based background check fees).*
  - f. *Transfer of location: \$1,000.00.*
  - g. *Modification of premises or other activities for which a fee is permitted, but for which a fixed amount is not set in this Article: \$250.00.*
  - h. *Change of corporate structure or change of a Controlling Beneficial Owner: \$150.00 per person (plus actual fingerprint-based background check fees).*
  - i. *Other change in financial interests: \$100.00 minimum, or actual cost if more than \$100.00.*
  - j. *The Board of Trustees, by resolution, may increase or decrease any fee or cost or otherwise modify any other provisions set forth in this section. Any such increase, decrease or other modification shall be evidenced by an appendix to this Article.*
2. *The primary purpose of the fees established in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of general services provided by the Town or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional net revenue.*
3. *Fees described in this section are non-refundable even if a license or application is denied, approved but not issued, lapsed, abandoned or withdrawn.*

### *Sec. 1.7. License applications.*

1. *Application for a medical marijuana business license shall be made to the Town Clerk upon forms provided by the Town Clerk for that purpose. A complete application must contain all information that is required by the laws of the State with respect to any license that may be issued pursuant to the Colorado Marijuana Code and such additional information as may be requested by the Town Clerk in writing. At a minimum, the application shall require the following information:*
  - a. *The name, address and date of birth of the owner of the proposed medical marijuana business in whose name the license is proposed to be issued. If the owner is a corporation, partnership, Limited Liability Company or similar business entity, the*

*application shall include the name and address of all Controlling Beneficial Owners. If the owner is not a natural person, the organization documents for all business entities identified in the application and the contact information for the person that is authorized to represent the entity shall be provided.*

- b. The name, address and date of birth of the business manager of the medical marijuana business if the manager is proposed to be someone other than the owner or if the owner is an entity other than a natural person.*
- c. The name, address and date of birth of all persons holding any financial interest in the medical marijuana business, other than commercial lenders regulated by the federal government or the State.*
- d. The name, address and date of birth of all employees or prospective employees of the medical marijuana business.*
- e. A statement of whether or not any of the named owners, Controlling Beneficial Owners, managers, parties with a financial interest, employees or other persons named on the application have been:
  - i. Denied an application for a medical marijuana business license by any other jurisdiction, including the State, or has had such license suspended or revoked.*
  - ii. Denied an application for liquor license pursuant to Article 3 or 4, Title 44, C.R.S., or had any such license suspended or revoked.*
  - iii. Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to the possession, use or possession with intent to distribute narcotics, drugs or other controlled substances.*
  - iv. Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any serious traffic offense.**
- f. A licensee shall notify the State Licensing Authority and Local Licensing Authority in writing of the name, address and date of birth of any proposed new owner, Controlling Beneficial Owner, business manager, person holding a financial interest in the business or employee at least thirty (30) days before the new owner, Controlling Beneficial Owner, business manager or employee becomes associated with the business. The new owner, Controlling Beneficial Owner, business manager or employee shall pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification prior to being associated with, managing, owning or working at the medical marijuana business.*
- g. Proof of ownership or legal possession of the proposed licensed premises for the term of the proposed license shall be presented to the Town Clerk before any medical marijuana business license permitted by this Article may be issued. If the licensed premises will be leased rather than owned by the applicant, a written consent by the owner of the property to licensing of the premises as a medical marijuana business must be submitted by the applicant to the Town Clerk as part of a complete application. A fully executed lease may satisfy this requirement if it clearly indicates that the owner knows that the leased premises will be used as a licensed medical marijuana business. If the building in which the licensed premises will be located is regulated by a declaration of covenants, such declaration, covenants or restrictions shall be submitted by the applicant to the*

*Town Clerk as part of its complete application to establish that a medical marijuana business is not prohibited by such declaration, covenants or restrictions.*

- h. An operating plan for the proposed medical marijuana business including the following information:
    - i. A description of the products and services to be provided by the medical marijuana business, including an indication of whether or not the facility proposes to engage in the retail sale of medical marijuana-infused products for human consumption or use.*
    - ii. A floor plan showing all interior dimensions of the licensed premises and the layout of the medical marijuana business. Such floor plan shall also show the Controlling Beneficial Owner uses of the floor area depicted therein, including a depiction of where any services other than the dispensing of medical marijuana are proposed to occur on the licensed premises. If the building or proposed licensed premises are not yet in existence, the applicant shall file a scaled plot plan and a detailed sketch for the interior and submit an architect's drawing of any building to be constructed.*
    - iii. A security plan containing all information required by the State Licensing Authority's regulations.*
    - iv. A lighting plan, including security lighting, for the licensed premises and adjacent grounds.*
    - v. Any information and documentation not included in the foregoing subparagraphs that is or will be required in an application to be filed with the State Licensing Authority for the state license that may be issued in accordance with the provisions of the Colorado Marijuana Code.*
    - vi. Any additional documents or information reasonably requested by the Town Clerk.**
- 2. Any application for a medical marijuana business license shall be accompanied by the application fee, criminal background check fee, and an annual fee as required by Section 1.6 above or in any resolution adopted pursuant thereto. No application shall be deemed complete or be processed in the absence of the payment of such fees.*
  - 3. Upon receipt of an application for a medical marijuana business license, the Town Clerk shall circulate the application to the Town Manager, the Building Official and the Marshal's Office to determine whether the proposed facility is or will be in full compliance with any and all laws, rules and regulations administered by said departments.*
  - 4. Unless an application is under concurrent review by the State Licensing Authority and the Local Licensing Authority, the Marshal's Office shall perform a criminal background investigation for the proposed licensee, business manager, if any, the Controlling Beneficial Owners of the entity, if applicable, persons holding a financial interest in the proposed business, employees and any other persons subject to a criminal background check under the provisions of the Colorado Marijuana Code in connection with any license application permitted thereunder. The applicant shall pay all actual costs of such background checks. The Town Marshal shall provide the Board of Trustees with a written report concerning the character and record of the proposed licensee, the business manager if any, the Controlling*

*Beneficial Owners of any business entity that would constitute the licensee, persons holding a financial interest in the proposed business and employees.*

5. *The Town Manager, Town Building Official and the Town Marshal shall perform physical inspection of the proposed licensed premises to determine compliance with any applicable requirement of this Article as well as any other applicable codes.*
6. *The Town Clerk shall not proceed to process any application for a license that is not complete or otherwise in full compliance with this Article, any other applicable Town ordinance or regulation or any applicable laws of the State. The Town Clerk also shall refuse to further process any application that contains any false or incomplete information, but shall allow an applicant reasonable opportunity to correct deficiencies in applications that fail to include complete information before denying such application.*

*Sec. 1.8. Procedures for approval or denial of license application.*

1. *Within thirty (30) days following the date the Town Clerk certifies that a license application is complete, the Local Licensing Authority shall approve the license application, deny the license application or approve the license application with conditions. No public hearing shall be required. However, the Local Licensing Authority shall notify the applicant of the date and time the application will be considered. The applicant shall appear at such meeting and the applicant shall be permitted to address the Local Licensing Authority in support of the application. No application for a license authorized under this Article shall be approved unless:
  - a. *All applicable requirements of this Article have been satisfied;*
  - b. *All applicable requirements of the Colorado Marijuana Code have been satisfied;*
  - c. *All required licensee fees and associated costs have been paid by the applicant;*
  - d. *The applicant has received a conditional use permit to operate the proposed medical marijuana business in accordance with the Town's Land Use Code;*
  - e. *All other applicable requirements of this Code have been met;*
  - f. *The applicant has obtained a state sales tax license, Town sales tax license, and a business license pursuant to Article I of Chapter 6 of this Code;*
  - g. *The applicant is not in arrears in regard to any administrative fines, court fines, assessments, sales tax reporting or payment obligations, or fees owed to the Town; and*
  - h. *No fraudulent, misrepresented or false statement of material or relevant fact is contained within the application or was made to the Local Licensing Authority.**
2. *The Local Licensing Authority shall issue its determination and findings within thirty (30) days following the meeting at which the application was considered. The Local Licensing Authority shall notify the applicant in writing of its determination and findings by first-class U.S. mail addressed to the applicant at the address shown on the application. No license shall actually be issued by the Local Licensing Authority until the applicant has obtained the requisite license from the State Licensing Authority.*

### *Sec. 1.9. Conditions on licenses.*

1. *At the time that a new license is first approved, when an existing license is renewed, at any time that a sanction other than revocation is imposed or at any time the Local Licensing Authority approves a major change to a license, the Local Licensing Authority may impose on the license any conditions related to the license, licensed premises or adjacent grounds that are reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:*
  - a. *Additional security requirements;*
  - b. *Additional record keeping requirements;*
  - c. *Limits and requirements on parking and traffic flows;*
  - d. *Requirements for walls, doors, windows, locks and fences on the licensed premises and adjacent grounds;*
  - e. *Limits on the number of patients who may patronize the establishment at one (1) time;*
  - f. *Limits on medical marijuana-infused products that may be sold;*
  - g. *Requirements and limits on ventilation and lighting;*
  - h. *Limits on the products other than medical marijuana and medical marijuana-infused products that can be sold on the licensed premises such as drug paraphernalia;*
  - i. *Limits on noise inside the licensed premises or on the adjacent grounds;*
  - j. *Prohibitions on certain conduct in the licensed premises that would disrupt existing uses on nearby properties;*
  - k. *Limits on hours of operation that are more restrictive than prescribed by Subsection 1.10(k) below;*
  - l. *A requirement that the licensee temporarily close the licensed premises to the public until certain changes, inspections or approvals are made; and*
  - m. *A limitation on the square footage of the licensed premises.*

### *Sec. 1.10. Personal requirements for licensee, Controlling Beneficial Owners, business manager, persons holding financial interest and employees.*

1. *The applicant, Controlling Beneficial Owners, business manager, persons holding a financial interest in the business and employees shall meet all requirements for the issuance of a license by the State Licensing Authority.*
2. *The applicant, Controlling Beneficial Owners, business manager and employees shall all be over the age of twenty-one (21) years.*
3. *The applicant, Controlling Beneficial Owners, business manager, persons holding a financial interest in the business and employees have not been determined by any other medical marijuana licensing authority, any other licensing board within the State or the State Licensing Authority to not be persons of good character and record within the preceding three (3) years.*
4. *The applicant, Controlling Beneficial Owners, business manager, persons holding a financial interest in the medical marijuana business and employees are presently persons of good character and record.*



5. *The applicant, Controlling Beneficial Owners, business manager, persons holding a financial interest in the medical marijuana business and employees shall be ineligible based on a criminal conviction as defined by CRS § 44-10-307 as amended.*
6. *The applicant, Controlling Beneficial Owners, business manager, persons holding a financial interest in the medical marijuana business and employees have not had their authority, if any, to act as a primary caregiver revoked by the State within the preceding two (2) years.*
7. *The applicant and Controlling Beneficial Owners are not in default on any municipal, county, state or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the Town.*
8. *The applicant and Controlling Beneficial Owners are not in default on any student loan.*
9. *The applicant and Controlling Beneficial Owners do not have any orders or judgments against them for child support in default or in arrears.*
10. *The applicant and Controlling Beneficial Owners are not peace officers or prosecuting attorneys.*
11. *The applicant and Controlling Beneficial Owners are not licensed physicians who recommend medical marijuana to patients.*

#### *Sec. 1.11 Special restrictions and requirements.*

1. *Limitation on the number of licenses that may be issued within the Town. All medical marijuana centers and facilities must be co-located within a like licensed recreational marijuana business held by a licensee licensed under Article II of this Code. No stand-alone medical marijuana license of any type shall be issued. The Local Licensing Authority may issue up to two (2) medical marijuana center licenses which must be co-located in a center licensed under Article II herein; one (1) medical marijuana-infused products manufacturing licenses which must be co-located in a manufacturing facility licensed under Article II herein; two (2) optional premises cultivation operation licenses relating to medical marijuana center licenses, the operations of which are contiguous to the medical marijuana centers, and which must be co-located with a cultivation operation licensed under Article II herein; one (1) optional premises cultivation operation licenses related to medical marijuana center licenses, the operations of which are not contiguous to the medical marijuana centers, which must be co-located in a premises cultivation operation licensed under Article II herein; and one (1) optional premises cultivation operation licenses related to medical marijuana-infused products manufacturer, which must be co-located in an infused product manufacturing operation licensed under Article II herein. In the event more than one (1) license application for a medical marijuana business of the same classification is submitted to the Local Licensing Authority within a period of thirty (30) days, the applications comply with all of the requirements of this Article and the Colorado Marijuana Code, but the Local Licensing Authority is not permitted to approve all of the applications because of the limitations set forth in this Subsection, the Local Licensing Authority shall approve the application that the Local Licensing Authority finds and determines will best promote the intent and purposes of this Article and the Colorado Marijuana Code in accordance with the procedures set forth for multiple applications under Article II of this Code. An application for renewal of an existing medical marijuana business license shall receive a preference over an application for a new*

- medical marijuana business license if the existing business has substantially met all of the requirements of this Article and the Colorado Marijuana Code during the previous license term and is in good standing.*
2. *Permitted locations. All medical marijuana business licenses shall be issued for a specific location which shall be designated as the licensed premises. Retail marijuana business licenses shall only be issued for locations permitted as shown in the Principle Uses by Zoning District Table contained in the Town's Land Use Code. If an applicant has not yet received a conditional use permit to operate a medical marijuana business, a license may be granted conditioned upon such conditional use permit being granted. A present no Industrial Zone exists under the Land Use Code.*
  3. *Distance from schools. Medical marijuana centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of one thousand (1,000) feet from schools having full time enrollment of 100 or more students, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises. Medical marijuana centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of five hundred (500) feet from schools having full time enrollment of less than 100 students, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises. Prior to issuing a retail marijuana business license, the Local Licensing Authority shall confirm that the proposed licensed premises boundaries meet such requirements. Medical marijuana centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred and fifty (250) feet from a building that is primarily used as a school administration office where children may be present, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises.*
  4. *Once the marijuana business license is issued, the Town will not preclude a school from locating within the above described buffer zone. A retail marijuana business may then continue to operate at its present location. If a school use later locates within the applicable buffer zone, however, the licensee does so at its own risk, and the issued license provides no protection or indemnification against enforcement of federal or other applicable laws prohibiting the operation of a retail marijuana business near a school.*
  5. *Distance from licensed child care facilities. Medical marijuana centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred fifty (250) feet from licensed child care facilities, as defined in the Colorado Marijuana Code.*
  6. *Distance from publicly owned playgrounds. Medical marijuana centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred fifty (250) feet from the nearest outside fence of any public playground owned by the Town of Dolores.*
  7. *Distance from other medical marijuana businesses. There shall be no distance requirement between medical marijuana businesses.*
  8. *No mobile facilities. No medical marijuana business shall be located in a movable or mobile vehicle or structure, and no medical marijuana products shall be delivered in the Town unless*

- such delivery is by a medical marijuana center licensed by the Town and such delivery is specifically permitted by the Colorado Marijuana Code.*
9. *No products to be visible from public. Marijuana plants, products, accessories and associated paraphernalia contained in a medical marijuana business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place or any portions of the building not restricted to patients only. Visibility of any outdoor optional premises cultivation operation shall be governed by the conditional use permit granted by the Board of Trustees.*
  10. *No beer or alcohol on premises. No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a medical marijuana business, except for marijuana tinctures.*
  11. *Hours of operation. Medical marijuana businesses shall limit their hours of operation to between 8:00 a.m. and 9:00 p.m.*
  12. *Restrictions regarding signage. All signage associated with a medical marijuana business shall meet the standards established in this Code and the Land Use Code. In addition, no sign associated with a medical marijuana business shall use the word marijuana, cannabis or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word medical or the message of such sign includes the words for medical use or for medicinal purposes in letters that are no smaller than the largest letter on the sign. No depiction of marijuana plants or leaves shall appear on any exterior sign of a medical marijuana business.*
  13. *Storage of products. All products and accessories shall be Center completely indoors and on-site out of public view.*
  14. *Restrictions on location of transactions. All transactions involving medical marijuana shall occur indoors and out of view of the public.*
  15. *Consumption of marijuana prohibited. No consumption of any medical marijuana product shall be allowed or permitted on the licensed premises or adjacent grounds.*
  16. *Underage persons prohibited. No person under the age of eighteen (18) years shall be permitted in the licensed premises unless accompanied by a parent or legal guardian.*
  17. *Gun sales and pawn shop activities prohibited. No gun sales or pawn shop activities shall be permitted on the licensed premises.*
  18. *Storage of currency. All currency over one thousand dollars (\$1,000.00) shall be Center within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Marshal's Office.*
  19. *Prevention of emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the licensed premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the licensed premises, the landowner and licensee shall be jointly and severally responsible for the full cleanup immediately. The medical marijuana business shall properly dispose of all materials and other substances in a safe and sanitary manner.*
  20. *Compliance with other codes. The licensed premises and adjacent grounds of a medical marijuana business shall comply with all zoning, health, building, electrical, mechanical, fire and other codes and ordinances of the Town as shown by completed inspections and*

*approvals by the Community Development Department, Building Department, Dolores Fire Protection District and Montezuma County Health Department, if applicable.*

21. *No harm to public health, safety and welfare. The licensed premises and adjacent grounds of a medical marijuana business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.*

*Sec. 1.12. Specific requirements for medical marijuana center.*

1. *The licensee shall also obtain an optional premises cultivation operation license, related to the licensed premises of the medical marijuana center.*
2. *The applicant shall cultivate at least seventy percent (70%) of the marijuana sold or exchanged on the licensed premises.*
3. *Small samples of medical marijuana products offered for sale may be displayed on shelves, counters and display cases in areas restricted to patients and primary caregivers. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Marshal's Office.*
4. *A medical marijuana center may sell drug paraphernalia as that term is defined in Chapter 10, Article XII, of this Code to patients only and shall be exempt from the prohibitions contained in said Article. Provided, however, a medical marijuana center shall not display drug paraphernalia for sale on the licensed premises and such drug paraphernalia shall only be shown to patients in an area restricted to access by patients upon request.*

*Sec. 1.13. Specific requirements for optional premises cultivation operation license.*

1. *The applicant shall also hold a medical marijuana center license or a medical marijuana-infused products manufacturer's license.*
2. *The proposed licensed premises shall be related to the licensee's licensed premises for a licensed medical marijuana center or a medical marijuana-infused products manufacturer's operation.*
3. *The area of the proposed licensed premises utilized for cultivation shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.*
4. *The area of the proposed licensed premises utilized for cultivation shall be sufficiently separated from the area of the premises open to the public or to patients and primary caregivers, or a negative air pressure system shall be installed to prevent pesticides, fertilizers and other chemicals, artificial and natural, from moving into the ambient air in the area open to the public, patients and primary caregivers or any adjacent building, and such separation or negative air pressure system shall be approved by the Dolores Fire Protection District and the Building Official.*
5. *If carbon dioxide will be used in the cultivation area in the proposed licensed premises, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air in any area open to the public or to patients or in any adjacent building in a concentration that would be harmful to any person, including*

*persons with respiratory disease, and shall be inspected and approved by the Dolores Fire Protection District and Building Official.*

6. *Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients and primary caregivers from entering the area of the licensed premises utilized for cultivation of marijuana.*
7. *Disposal of unwanted marijuana by-products shall be done in accordance with procedures approved by the Marshal's Office.*
8. *If the approved cultivation area for the licensed operation increases in size, a new license must be issued and the existing conditional use permit shall be modified for the expanded area.*
9. *All permitted cultivation shall occur indoors in a manner that cultivation lights shall not be visible from outside the cultivation structure.*

#### *Sec. 1.14. Specific requirements for medical marijuana-infused products manufacturer's license.*

1. *The applicant shall have a contract with a medical marijuana center, stating the type and quantity of medical marijuana-infused products that the medical marijuana center will buy from the licensee.*
2. *The applicant may obtain an optional premises cultivation operation license and cultivate its own medical marijuana for use in manufacturing. As an alternative, the licensee may obtain medical marijuana from not more than five (5) different medical marijuana centers in the production of one (1) medical marijuana-infused product. A medical marijuana-infused products manufacturer licensee shall have a written contract and shall at a minimum set forth the total amount of medical marijuana obtained from a medical marijuana center licensee to be used in the manufacturing process and the total of medical marijuana-infused products to be manufactured from the medical marijuana obtained from the particular medical marijuana center.*

#### *Sec. 1.15. Renewal of medical marijuana business license.*

1. *A licensee may renew its medical marijuana business license by submitting an application to the Town Clerk at least forty-five (45) days before and not more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of its license at least forty-five (45) days before expiration of the license, the license shall expire.*
2. *A licensee may renew a license that has expired if:*
  - a. *The license has expired for less than ninety (90) days; and*
  - b. *The licensee pays the regular renewal fee and an additional \$500.00 late renewal fee.*
3. *In the event an application for renewal has been filed at least forty-five (45) days before the expiration of the previous license, but the Local Licensing Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Local Licensing Authority issues a decision on the application for renewal, but in no event may the license be extended for more than thirty (30) days. If the applicant is not eligible for reinstatement of an expired license by the state*

- of Colorado, the applicant is subject to the procedures and fees provided in the Code for a new license application.*
4. *The Local Licensing Authority may renew a license without a public hearing. However, if the Local Licensing Authority believes there may be good cause to deny the application for renewal, the Local Licensing Authority shall hold one public hearing on the application. The licensee shall have an opportunity to be heard at the hearing and shall be given at least fifteen (15) days written notice of the date and time of the public hearing on the application for renewal.*
  5. *The Building Official or designee shall conduct an annual fire and life safety inspection shall be required prior to the renewal of the license.*

*Sec. 1.16. Major changes to medical marijuana business license or licensed premises requiring approval of Local Licensing Authority.*

1. *A licensee shall not make any of the following changes without first obtaining written approval of the Local Licensing Authority which may be granted contingent upon State Licensing Authority approval:*
  - a. *Any transfer of the license or any ownership interest in the licensee's business entity or license;*
  - b. *Any change in the location of the licensed premises;*
  - c. *Any change in the licensee's Controlling Beneficial Owners or employees;*
  - d. *The hiring, substitution, resignation, replacement or termination of the business manager;*
  - e. *Any change in the ownership of any of the stock of licensee's corporation;*
  - f. *Any change in the structure, ventilation system, plumbing system, electrical supply system, floor plan, safe or vault, locks, surveillance system, fire suppression system or security system at the licensed premises;*
  - g. *Any material change to the adjacent grounds, including but not limited to lighting, parking or fences; and*
  - h. *Any material change in the operation from the operational plan submitted at the time the license was approved.*
2. *The Local Licensing Authority may summarily approve any of the above changes or hold a public hearing on the same, in the Local Licensing Authority's discretion. In the event the Local Licensing Authority elects to hold a public hearing, the Local Licensing Authority shall post notice of the hearing in the manner described in Section 44-10-303, C.R.S. on the licensed premises for a period of at least ten (10) days. Notice of the hearing shall also be provided to the applicant at least ten (10) days prior to the public hearing.*
3. *A licensee shall report each major change described in this Section to the Local Licensing Authority at least thirty (30) days prior to the change to allow sufficient time for the Local Licensing Authority to review the proposed change.*
4. *The transfer of a license to a new owner does not constitute a new license. The transferring of a license or ownership interest in a license takes the transfer of such license or interest subject to the conditions, history, record, and sanctions imposed on that license under the previous ownership of the license.*

### *Sec. 1.17. Reports of minor changes.*

1. *Every licensee shall report the following to the Local Licensing Authority in writing within ten (10) days of such event:*
  - a. *Any change in a person's financial interest in the licensee's business, the licensed premises or adjacent grounds;*
  - b. *Any charges filed against or any conviction of any Controlling Beneficial Owner, business manager or employees for any felony, misdemeanor or serious traffic offense, including but not limited to any deferred judgment and sentence ordered or supervised by a court of law; and*
  - c. *Any change to any sign on the licensed premises or adjacent grounds.*

### *Sec. 1.18. Books and records.*

1. *Every licensee shall maintain on the licensed premises at any time that any person is present on the licensed premises accurate and up-to-date books and records of the business operations of the licensee or an authentic copy of the same, including but not limited to the following:*
  - a. *All books and records required to be maintained by the Colorado Marijuana Code and the regulations promulgated thereunder;*
  - b. *Lists, manifests, orders, invoices and receipts for all marijuana, marijuana plants and medical marijuana-infused products cultivated, harvested, processed, delivered, purchased, Centered, sold and exchanged during the preceding two (2) years by each transaction or event, including the date, source, strain, type, quantity, weight and purchaser;*
  - c. *An inventory of all marijuana and medical marijuana-infused products presently on the licensed premises;*
  - d. *Sales taxes and all other taxes collected and paid pursuant to this ordinance;*
  - e. *The name, address and a copy of each purchaser's medical marijuana registry card for every patient who has registered the medical marijuana center as his or her primary center or who has purchased medical marijuana, marijuana plants or medical marijuana-infused products at the licensed premises;*
  - f. *The written recommendation of any physician who has recommended that a patient registered with the medical marijuana center needs more than two (2) ounces of medical marijuana and six (6) marijuana plants to address the patient's debilitating medical condition;*
  - g. *The name, address and a copy of the medical marijuana license of any other medical marijuana facility licensee with whom the licensee has transacted any business, including but not limited to any purchase, sale or exchange of marijuana plants, harvested marijuana or medical marijuana- infused products; and*
  - h. *Copies of the medical marijuana registry card of a homebound patient and the waiver from the State authorizing a primary caregiver to purchase medical marijuana for the*

- homebound medical marijuana patient and transport the same to the homebound patient.*
- 2. The licensee shall separate or redact any information showing a patient's debilitating medical condition from the above records.*

*Sec. 1.19. Inspection of books and records; audits.*

- 1. Any law enforcement officer or the Town Manager may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 1-17 above at any time that anyone is present inside the licensed premises, but shall not inspect confidential patient medical information describing a patient's debilitating medical condition, unless a warrant specifically authorizing inspection of such records is issued or there are legal grounds that would excuse the requirement of a warrant.*
- 2. Upon five (5) days written notice, a licensee shall provide the books and records of the licensee for inspection or auditing by the Town, but shall not be required to provide any confidential patient medical information. In the event confidential patient medical information is interspersed with other records or is contained on the same sheet of paper or electronic record, the licensee shall copy the record and redact the confidential patient medical information and provide a redacted copy to the Town or law enforcement officers.*

*Sec. 1.20. Inspection of licensed premises and adjacent grounds.*

- 1. Every licensed premises and adjacent grounds shall be open to inspection by town marshals, building officials, Dolores Fire Protection District officials, zoning officials and health department officials at any time that anyone is present in the licensed premises, without obtaining a search warrant and without reasonable suspicion to believe that any violation or criminal offense has occurred.*
- 2. The licensee, Controlling Beneficial Owners, business manager and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this Section.*
- 3. Licensees, Controlling Beneficial Owners, business managers, employees, patients, primary caregivers and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the licensed premises and adjacent grounds, to the extent provided by law.*

*Sec. 1.21. Suspension and revocation of license.*

- 1. In accordance with Section 44-10-901, C.R.S., as contained in the Colorado Marijuana Code, and the rules and regulations promulgated thereunder, the Local Licensing Authority shall have the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend*



*or revoke a medical marijuana business license issued by the Local Licensing Authority. The Local Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of the hearing. Subpoenas shall be enforced by the Municipal Court. The procedure for imposing such disciplinary actions shall be in accordance with Section 44-10-901, C.R.S.*

2. *The Local Licensing Authority may suspend or revoke a medical marijuana business license for a violation by the licensee or by any of the agents or employees of the licensee of the following:*
  - a. *Any of the provisions of the Colorado Marijuana Code or the rules and regulations promulgated thereunder;*
  - b. *Good cause as defined in Subsection (17) of Section 44-10-103, C.R.S., as contained in the Colorado Marijuana Code;*
  - c. *Violation of any of the provisions set forth in this Article;*
  - d. *The licensee has failed to pay the annual medical marijuana license and application fees, annual business license fee or sales taxes due and owing;*
  - e. *The licensee has made any false statement in the application for a license or renewal thereof as to any of the facts required to be stated in such application;*
  - f. *The licensee has failed either to file the required reports or to furnish such information and records as required by this Article;*
  - g. *Violation of any condition imposed by the Local Licensing Authority on the issuance of the license;*
  - h. *Any facts or conditions exist which, if it had existed or had been known to exist at the time of the application for such license or renewal thereof, would have warranted the Local Licensing Authority in refusing originally to issue such license or renewal thereof;*
  - i. *The licensee has failed to maintain the licensed premises in compliance with the requirements of the Land Use Code or any building, electrical or mechanical code provision applicable to the licensed premises; or*
  - j. *The licensee, or any of the agents or employees of the licensee, have violated any ordinance of the Town or any state law on the licensed premises or have permitted such a violation on the licensed premises by any other person.*
3. *Except in the case of an emergency suspension, a suspension of a license shall not be for a period longer than six (6) months.*
4. *Any final decision of the Local Licensing Authority suspending or revoking a medical marijuana business license, following a hearing as permitted in this Section, may be appealed to the Montezuma County District Court within thirty (30) days following the date of such decision pursuant to the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure.*

## ARTICLE II. Licensing and Regulation of Recreational Marijuana Businesses

### Sec. 2.1. Purpose.

1. *The Board of Trustees intends to regulate the use, acquisition, production and distribution of recreational marijuana in a manner consistent with the Section 16 of Article XVIII of the Colorado Constitution ("Retail Marijuana Amendment") and in accordance with the Colorado Marijuana Code, Article 10 of Title 44, C.R.S. (the "Colorado Marijuana Code") and regulations adopted by the State of Colorado thereunder.*
  - a. *The Colorado Marijuana Code, Article 10 of Title 44, C.R.S., imposes statewide regulations pertaining to the cultivation, manufacture, distribution and sale of retail marijuana and for the licensing of retail marijuana business establishments. Such legislation also permits local licensing of such establishments. However, the State law is not intended to, and does not; address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana business.*
  - b. *The use, distribution, cultivation, production, possession and transportation of marijuana remains illegal under federal law, and marijuana is still classified as a "Level 1 Controlled Substance" under federal law. Nothing within this Article is intended to promote or condone the production, use, sale or distribution of retail or recreational marijuana other than in compliance with applicable local and State law and the Colorado Constitution.*
  - c. *This Article is not intended to regulate medical marijuana businesses which are governed by Article I above in this ordinance.*
  - d. *This Article is to be construed to protect the interests of the public over marijuana business interests. Operation of a retail marijuana business establishment is a revocable privilege and not a right within the Town. There is no property right for an individual to have a business to sell marijuana within the Town of Dolores.*
2. *The purpose of this Article II is to implement the Recreational Marijuana Amendment in a manner consistent with the Colorado Marijuana Code to protect the health, safety and welfare of the residents of the Town by prescribing the time, place and manner in which retail marijuana businesses may be operated within the Town. In addition, the purpose of this Article is to:*
  - a. *Provide for the safe sale of retail and recreational marijuana to persons legally permitted to obtain, possess and use marijuana for recreational purposes in accordance with the Recreational Marijuana Amendment.*
  - b. *Protect public health and safety through reasonable limitations on business operations as they relate to noise, air quality, food safety, public safety, security for the businesses and their personnel, and other health and safety concerns.*
  - c. *Impose fees in an amount sufficient to cover the direct and indirect cost to the Town of licensing and regulating retail marijuana business.*
  - d. *Allow retail marijuana Centers, retail marijuana cultivation facilities, retail marijuana product manufacturing facilities and retail marijuana testing facilities to operate in compliance with this Article II.*

- e. *Facilitate the implementation of the Recreational Marijuana Amendment without going beyond the authority granted by such Amendment.*
- f. *The approval of any license, renewal or change to any existing license by the Local Licensing Authority is expressly contingent upon approval of the applicant by the State Licensing Authority.*

## *Sec. 2.2. Definitions.*

1. *The following words and phrases used in this Article shall have the following meanings unless the context clearly indicates otherwise:*
  - a. *Applicant means a person who has submitted an application to the Dolores Local Licensing Authority pursuant to this Article to operate a retail marijuana business, which application has not been approved or denied by the Authority.*
  - b. *Advertised, advertising or advertisement means the act of drawing the public's attention, whether through print, signs, telephonic, electronic, wireless or digital means, to a retail marijuana business or retail marijuana testing facility in order to promote the sale, cultivation, or testing of marijuana by the business.*
  - c. *Business manager means the individual(s) designated by the owner of a retail marijuana Center, retail marijuana cultivation facility, retail marijuana product manufacturing facility, or retail marijuana testing facility who are registered with the Town as the person(s) responsible for all operations of the business during the owner's absence from the business premises.*
  - d. *Character and record includes all aspects of a person's character and record, including but not limited to, moral character; criminal record including serious traffic offenses; record of previous sanctions against liquor licenses, gambling licenses, retail marijuana licenses, or medical marijuana licenses, which the person owns, in whole or in part, and which the person serves as a Controlling Beneficial Owner, manager or employee; education, training, experience; civil judgments entered against the person; truthfulness, honesty; and financial responsibility. The conviction of any person for any offense, shall not, in itself, be grounds for a finding of a bad character and record if such person demonstrates that he/she has been rehabilitated in accordance with Section 24-5-101, C.R.S. In the event the Local Licensing Authority considers information concerning the criminal history of a person, the Local Licensing Authority shall also consider any information provided by an applicant regarding such criminal history records, including but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction and the time of consideration of a license application.*
  - e. *Co-located marijuana business means a medical marijuana business that has a license pursuant to Article I of this Ordinance that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical marijuana center and a retail marijuana Center as a separate business premises with separate licenses from the Town within the same footprint and owned by the same person(s) or entity.*

- f. *Colorado Marijuana Code shall mean Article 10 of Title 44, C.R.S., as the same may be hereafter amended, and any rules or regulations promulgated thereunder.*
- g. *Direct beneficial interest owner means a person or closely held business entity that owns a share or shares of stock in a licensed retail marijuana business, including the officers, directors, managing members, or partners of the licensed retail marijuana business or closely held business entity, or a qualified limited passive investor.*
- h. *Good cause, for purpose of denial of an initial, renewal, or reinstatement of a license application, or for the imposition of disciplinary action against an existing licensee shall mean:*
  - i. *The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms and conditions of this Article II or provisions of the Colorado Marijuana Code, any rules promulgated pursuant thereto, or any other supplemental relevant State or local law, rules or regulations; or*
  - ii. *The licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the Dolores Local Licensing Authority; or*
  - iii. *The licensee or applicant has a bad character and record; or*
  - iv. *The licensee's licensed premises has been operated in a manner that adversely affects the public health, safety or welfare of the neighborhood in which the establishment is located.*
- i. *Good moral character means having a personal history that demonstrates honesty, fairness, and respect for the rights of others and the law, pursuant to Colorado Marijuana Enforcement Division regulations.*
- j. *License means to grant a license pursuant to the Colorado Marijuana Code and this Article for a retail marijuana Center, retail marijuana cultivation facility, retail marijuana product manufacturing facility, or retail marijuana testing facility.*
- k. *Licensed premises means the premises specified in an application for a license pursuant to this Article V and the Colorado Marijuana Code that is owned by or in possession of the licensee and within which the licensee is authorized to distribute, sell, cultivate, or manufacture marijuana products, or test retail marijuana in accordance with the provisions of the Colorado Marijuana Code.*
- l. *Licensee shall mean the retail marijuana business named on the retail marijuana business license, and all individuals named in the initial retail marijuana business license application, or individuals later submitted to and approved by the Town, including without limitation, owners, business managers, financiers, and individuals owning any part of an entity that holds a financial or other ownership interest in the retail marijuana business.*
- m. *Local Licensing Authority shall mean the Dolores Local Licensing Authority which shall consist of the members of the Dolores Board of Trustees or its designee(s).*
- n. *Marijuana for the purposes of this Article shall have the same meaning as set forth in the Recreational Marijuana Amendment or as may be more fully defined in any applicable State or local law or regulation.*
- o. *Marijuana accessories shall have the same meaning as such term is defined in the Recreational Marijuana Amendment.*

- p. *Marijuana business shall mean any medical marijuana business as defined by Article I of the this Ordinance or retail marijuana business as defined in this Article II.*
- q. *Medical marijuana shall have the same meaning as set forth in Section 14 of Article XVIII of the Colorado Constitution.*
- r. *Medical marijuana business shall include medical marijuana centers, medical marijuana infused products manufacturers, and medical marijuana optional premises cultivation operations as defined in the Colorado Marijuana Code, Article 10 of Title 44, C.R.S.*
- s. *Operating fees means fees that may be charged by the Town for costs including but not limited to inspection, administration, and enforcement of regulations governing retail marijuana business authorized pursuant to subsection 16(5)(f) of Article XVIII of the Colorado Constitution, the Colorado Marijuana Code, the rules adopted pursuant thereto, and this Article II.*
- t. *Place open to the general public shall mean any property owned, leased or used by a public entity, any place of private property open to the public, common areas of buildings, public parks, vehicles, streets, sidewalks, trails, those portions of any public or private property upon which the public has an expressed or implied license to enter or remain, and any place visible from such places. Places open to the general public shall not include any private residential property regardless of whether it can be seen from a place open to the public.*
- u. *Preschool means a facility that provides preschool programs and services to a school district under the Colorado Preschool Program Act to a majority of the children who attend or are enrolled in that facility.*
- v. *Recreational marijuana means any marijuana intended for recreational use which meets all of the requirements for recreational marijuana contained in this Article, the Recreational Marijuana Amendment, and any other applicable State or local law.*
- w. *Retail marijuana means all parts of the plant of the genus cannabis (hereafter the plant) whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin including marijuana concentrate, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana Center. Retail marijuana does not include industrial hemp, nor does it include fiber produced from stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.*
- x. *Retail marijuana cultivation facility has the same meaning as "marijuana cultivation facility" as defined in Section 16(2)(h) of Article XVIII of the State Constitution.*
- y. *Retail marijuana business means a retail marijuana Center, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail marijuana testing facility.*
- z. *Retail marijuana products manufacturer has the same meaning as "marijuana product manufacturing facility" as defined in Section 16(2)(j) of Article XVIII of the State Constitution.*
- aa. *Retail marijuana Center has the same meaning as defined in Section 16(2)(n) of Article XVIII of the State Constitution.*

- bb. Retail marijuana testing facility means "marijuana testing facility" as defined in Section 16(2)(l) of Article XVIII of the State Constitution that is licensed pursuant to the Colorado Marijuana Code.*
- cc. School means a public or private licensed preschool, or a public, private or charter elementary, middle, junior high or high school, vocational school, secondary school, community college, college or other institution of higher education.*
- dd. State Licensing Authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of retail marijuana in Colorado, pursuant to Section 44-10-201, C.R.S. of the Colorado Marijuana Code.*

*Sec. 2.3. License required for retail marijuana business.*

- 1. It shall be unlawful to operate a retail marijuana Center, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility, or a retail marijuana testing facility within the Town of Dolores without first obtaining a Town license to operate pursuant to this Article, and having a validly issued license in good standing from the State of Colorado, and having paid all applicable fees. Any person violating this Section shall be punished by a fine of up to three hundred ninety nine dollars (\$399.00), or by imprisonment in the Montezuma County jail for a period of up to ninety (90) days, or by both such fine and imprisonment. Each day that a violation continues shall be considered a separate and distinct offense.*

*Sec. 2.4. Composition of Local Licensing Authority.*

- 1. The Board of Trustees is hereby designated as the Dolores Local Licensing Authority. The Board of Trustees, may by resolution, delegate its authority or part of its authority set forth in this Article to an individual or group of individuals to act as the Local Licensing Authority.*

*Sec. 2.5. Functions and powers of Local Licensing Authority.*

- 1. The Local Licensing Authority shall have the duty and authority pursuant to the Colorado Marijuana Code and this Article to grant or deny an application described in this Article and to levy penalties against a licensee in the manner provided by law.*
- 2. The Local Licensing Authority shall consider applications for new business premises, transfer of ownership, change of location, licensed premises modification, changes in tradename and any other appropriate application.*
- 3. The Local Licensing Authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the Local Licensing Authority.*
- 4. The Local Licensing Authority shall have the power to require any applicant or licensee to furnish such information to the Authority as may be reasonably necessary in order for the Authority to perform the duties and functions authorized by this Article II.*
- 5. The Local Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any*

hearing which the Authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a district court of the State. The Municipal Judge shall have the power and authority to enforce such subpoena.

#### *Sec. 2.6. Limitation on the number of licenses that may be issued within the Town.*

- 1. A maximum of two (2) retail marijuana Center licenses which may be a co-located medical and retail marijuana business shall be issued by the Local Licensing Authority. A maximum of two (2) retail marijuana cultivation licenses which may be a co-located medical and retail marijuana business shall be issued by the Local Licensing Authority. A maximum of one (1) retail marijuana manufacturing facility license which may be a co-located medical and retail marijuana business shall be issued by the Local Licensing Authority. A maximum of one (1) retail marijuana testing facility license shall be issued by the Local Licensing Authority. An application for renewal of an existing retail marijuana Center license or retail marijuana cultivation facility license shall receive a preference over an application for a new retail marijuana Center license or new retail marijuana cultivation facility license if the existing business has substantially met all of the requirements of this Article and the Colorado Marijuana Code during the previous license term and is in good standing. If a new retail marijuana Center license or a new retail marijuana cultivation license becomes available for issuance after the issuance of the initial licenses described herein, the Town Clerk may publish a notice stating when the Town will accept applications for such licenses. Any applications received before or after the period described in such notice will be considered null, void and of no effect.*

#### *Sec. 2.7. Co-location of marijuana businesses.*

- 1. A person who holds a medical marijuana center license pursuant to Article I of this Ordinance Code and Article 10 of Title 44, C.R.S. and a retail marijuana Center license may operate both licenses within the same premises ("co-located operation"), provided they can satisfy the requirements applicable to each business or each premises under the Colorado Marijuana Code, Article 10 of Title 44, C.R.S., Colorado Marijuana Code, and Articles I and II of this ordinance.*
- 2. No co-located license shall be issued for a retail marijuana Center in a retail marijuana testing facility, or for a medical marijuana business in a retail marijuana testing facility.*
- 3. No co-located license shall be issued for a location in any zone where either of the proposed co-located operations are prohibited by the Town's Land Use Code.*
- 4. In the event a medical marijuana center authorizes medical patients under twenty-one (21) years of age on the premises, then there shall be a complete separation of the medical marijuana center and the retail marijuana Center operated under co-located licenses. Specifically the operation of a co-located business premises shall include the following:*
  - a. Separate sales and storage areas;*
  - b. Separate entrances and exits;*
  - c. Separate inventories and inventory tracking processes;*
  - d. Separate point of sales operations;*
  - e. Separate record keeping systems; and*

- f. Each operation shall otherwise meet all requirements imposed herein or in any State law for the operation of a retail marijuana business and a medical marijuana business.*
- 5. Licensees operating a medical marijuana center that prohibits the admittance of patients under the age of twenty-one (21) years and a retail marijuana Center may share their licensed premises as a co- location. Such a medical marijuana center licensee must post signage that clearly conveys that persons under the age of twenty-one (21) years may not enter the premises. Under these circumstances, and upon approval of the State Licensing Authority and the Dolores Local Licensing Authority, the medical marijuana and retail marijuana and medical marijuana-infused products and retail marijuana products must be separately displayed on the same sales floor. Record keeping for the business operation of both must enable the State and the Town to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.*

### *Sec. 2.8. Issuance of initial licenses—General.*

- 1. After adoption of this Ordinance, the Town Clerk may publish a notice that the Town of Dolores is accepting applications for retail marijuana business licenses. Said notice shall establish a deadline for the Town's acceptance of such applications. The Town Clerk shall initially review such applications for completeness. In the event the Town Clerk finds that an application is incomplete, the Town Clerk shall notify the applicant in writing of the application deficiencies and allow the applicant to correct such deficiencies within fifteen (15) days from the date of receiving such notice. The Town Clerk shall then forward the applications to the Local Licensing Authority for processing and review. The Local Licensing Authority shall then finally determine the sufficiency of the license applications and the eligibility of the applicants to hold a retail marijuana business license.*
- 2. The Town Clerk shall initially review such applications for completeness. If an application is incomplete or fails to comply with the requirements of this Article or the Colorado Marijuana Code, Article 10 of Title 44, C.R.S., the Town Clerk shall reject said application. Amendment of such application or correction of information on such application shall not be permitted. The Town Clerk shall forward the applications that appear complete and in compliance with this Article and the Colorado Marijuana Code to the Local Licensing Authority for processing and review. The Local Licensing Authority shall then finally determine the sufficiency of the license applications and the eligibility of the applicants to hold a retail marijuana business license.*

### *Sec. 2.9. Issuance of licenses—Retail marijuana Centers and retail marijuana cultivation facilities.*

- 1. If more sufficient license applications are received than the maximum number allowed pursuant to Section 2.8 and the Local Licensing Authority is not permitted to approve all of the sufficient applications received because of the limitations set forth in Section 2.6, the Local Licensing Authority shall establish a date and time for selecting by lot the priority of the sufficient license applications. The Local Licensing Authority shall then proceed to approve*



- one (1) retail marijuana Center license to the highest priority applicant who has been a bonafide resident of Dolores, Colorado for at least one (1) year prior to the date of the application, or if a business entity, over fifty percent (50%) of its direct beneficial interest owners have been bonafide residents of Dolores, Colorado for at least one (1) year prior to the date of the application. The Local Licensing Authority shall also approve one (1) retail marijuana Center license to the highest priority applicant as determined by lot of all sufficient applications received, that have paid the applicable license and operational fees and that comply with the requirements of this Article. The Local Licensing Authority shall also approve two (2) retail marijuana cultivation facility licenses for the two (2) highest priority applicants, as determined by lot, that have paid the applicable license and operational fees and that comply with the requirements of this Article. One (1) retail marijuana cultivation facility license shall be awarded to the highest priority applicant as determined by lot who has been a bonafide resident of Dolores, Colorado for at least one (1) year prior to the date of the application, or if a business entity, over fifty percent (50%) of the direct beneficial owners have been bonafide residents of Dolores, Colorado for at least one (1) year prior to the date of the application. A third retail marijuana cultivation facility license shall be issued to the highest priority applicant as determined by lot who was not awarded a license through the process described above.*
- 2. In regard to license applications for retail marijuana Centers and/or retail marijuana cultivation facilities received by the Local Licensing Authority, if more sufficient license applications are received by the Local Licensing Authority than the number of available licenses permitted pursuant to Section 2.8 and the Local Licensing Authority is not permitted to approve all of the sufficient applications received because of the limitation set forth in Section 2.6, the Local Licensing Authority shall establish a date and time for selecting by lot the priority of the sufficient license applications. No priority shall be given based upon the residency of the applicant.*
  - 3. The Local Licensing Authority shall also issue retail marijuana cultivation licenses to retail marijuana Center licensees who also submit applications for a retail marijuana cultivation facility and who agree that at least seventy percent (70%) of the product cultivated will be supplied to its own retail marijuana Center.*
  - 4. Initial Review. In addition to other requirements contained in this Article II the initial criteria considered for review by the Local Licensing Authority for an application for a retail marijuana Center license and retail marijuana cultivation facility license must be satisfied in full before the applicant will be assigned a priority number. The initial review standards are as follows:
    - a. The applicant has fully completed a State Licensing Authority application including all subparts thereof, which shall be submitted as part of its application to the Local Licensing Authority. No material changes to the application to the State Licensing Authority shall be made after such submission to the Local Licensing Authority. This Code contemplates that the completed State Licensing Authority application will be submitted to the State Licensing Authority after approval by the Local Licensing Authority. "Material change" includes change of location, change of type of license, change in business structure or financing structure/arrangements, change in detailed floor plans, or changes to applicants security plan;**

- b. *The applicant shall not be ineligible based on a criminal conviction as defined by CRS § 44-10-307 as amended;*
  - c. *The applicant's proposed facility location satisfies the buffering requirements set forth herein; and*
  - d. *The business must certify that it has satisfied or will meet the minimum security requirements of this Article V prior to opening.*
5. *Award of Retail Marijuana Center and Retail Marijuana Cultivation Facility Licenses. The Local Licensing Authority shall issue a retail marijuana Center license to the applicants with the highest priority (as determined by lot if necessary) that have paid all applicable fees and that comply with the requirements of this Article. The Local Licensing Authority shall issue a retail marijuana cultivation license to the two (2) applicants with the highest priority as determined by lot as described above, that have paid all applicable fees and that comply with the requirements of this Article.*
  6. *Limitation on Number of Licenses per Person. No person or business entity or any person associated with a business entity may hold an ownership interest in more than one retail marijuana Center located in the Town.*

*Sec. 2.10. Permitted locations.*

1. *All retail marijuana business licenses shall be issued for a specific location which shall be designated as the licensed premises. Retail marijuana business licenses shall only be issued for locations permitted as shown in the Principle Uses by Zoning District Table contained in the Town's Land Use Code and appendix to Article IV herein. If an applicant has not yet received a conditional use permit to operate a retail marijuana business, a license may be granted conditioned upon such conditional use permit being granted.*

*Sec. 2.11. Distance requirements from schools and other locations.*

1. *Distance from schools. Retail marijuana Centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of one thousand (1,000) feet from schools having full time enrollment of 100 or more students, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises. Retail marijuana Centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of five hundred (500) feet from schools having full time enrollment of less than 100 students, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises. Retail marijuana Centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred and fifty (250) feet from a building that is primarily used as a school administration office where children may be present, as measured from the nearest property boundary of such school use to the front door or primary access of the proposed licensed premises. Prior to issuing a retail marijuana business license, the Local Licensing Authority shall confirm that the proposed licensed premises boundaries meet such requirements.*

2. *Once the marijuana business license is issued, the Town will not preclude a school from locating within the above described buffer zone. A retail marijuana business may then continue to operate at its present location. If a school use later locates within the applicable buffer zone, however, the licensee does so at its own risk, and the issued license provides no protection or indemnification against enforcement of federal or other applicable laws prohibiting the operation of a retail marijuana business.*
3. *Distance from licensed child care facilities. Retail marijuana Centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred fifty (250) feet from licensed child care facilities, as defined in the Colorado Marijuana Code.*
4. *Distance from publicly owned playgrounds. Retail marijuana Centers, cultivation operations, testing facilities, manufacturing facilities shall be located a minimum of two hundred fifty (250) feet from the nearest outside fence of any public playground owned by the Town of Dolores.*
5. *Distance from other medical marijuana businesses. There shall be no distance requirement between medical marijuana businesses.*

#### *Sec. 2.12. General licensing conditions.*

1. *Except as specifically provided herein, the issuance of a license for a retail marijuana business by the Town shall be subject to compliance with all provisions of Section 44-10-313, C.R.S. concerning licensing requirements.*
2. *The license requirements set forth in this Article 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, including by way of example, a retail sales license, an occupation tax license, an excise tax license, a retail food establishment license, or any applicable zoning, land use or building permits.*
3. *The issuance of a license pursuant to this Article does not create a defense, exception or provide immunity to any person in regard to any potential criminal liability a person may have for the production, distribution or possession of marijuana.*
4. *A separate license shall be required for each location from which a retail marijuana business is operated. A separate license shall be required for each specific business or business entity, for each geographical location and for each co-located retail marijuana Center. No person or entity may hold an ownership interest in more than one (1) retail marijuana Center within the Town of Dolores.*
5. *The submission of an application for the issuance of a license under this Article from the Town shall act as acknowledgement and agreement by the applicant or the licensee that the sale of marijuana continues to be subject to the control and jurisdiction of the federal government and actions taken by the federal government under the federal laws and regulations may limit or invalidate any license issued by the Town or the licensee's ability to own or operate a retail marijuana business in the Town.*
6. *After submission of a license application to the Local Licensing Authority, no material revisions, changes, corrections or amendments to such application will be accepted by the Local Licensing Authority. "Material" includes, but shall not be limited to, change of type of license, change in business structure, change of persons participating in a business entity, or*

*financing structure/arrangements, change in detailed floor plans, and a change to the security plan.*

*Sec. 2.13. License application requirements.*

1. *Start Date. The Local Licensing Authority shall receive and process all applications for retail marijuana business licenses beginning on January 4, 2021.*
2. *Application Materials. An application for a retail marijuana business license shall be made on forms provided by the Town Clerk for such purposes. Only one (1) original application will be accepted. Copies will not be accepted. The Town Clerk is authorized to promulgate requirements concerning organization of the application such as binding requirements, font size, etc. The applicant shall use the application to demonstrate its compliance with the provisions of this Article II and other applicable laws, rules or regulations. In addition to general information required of standard applications, the application shall require the following information:*
  - a. *Name and address of the owner or owners of the proposed retail marijuana business and in whose name the license is proposed to be issued.*
  - b. *If the proposed owner is a corporation, then the application shall include the name and address of all officers and directors of the corporation, and of any person holding any financial interest in the corporation, whether as a result of the issuance of stock, instruments of indebtedness, or otherwise, including disclosure information pertaining to bank, savings and loan associations or other commercial lender which has loaned funds to the applicant.*
  - c. *If the proposed owner is a partnership, association or limited liability company, the application shall include the name and address of all partners, members, managers or persons holding any financial interest in the partnership, association or limited liability company, including those holding an interest as the result of instruments of indebtedness or otherwise including disclosure of information pertaining to a bank, savings and loan association, or other commercial lender which has loaned funds to the applicant. It is not permissible to refer to such individuals using generic descriptions such as "family and friends."*
  - d. *If the owner is not a natural person, the application shall include copies of the organizational documents for all entities identified in the application and the contact information for the person that is authorized to represent the entity or entities.*
  - e. *Name and address of the proposed business manager(s) of the retail marijuana business, if the business manager is proposed to be someone other than the owner, or if the owner is an entity rather than a natural person.*
  - f. *A statement indicating whether any of the named owners, members, business managers, parties with a financial interest, or persons named on the application have been:*
    - i. *Denied an application for a medical marijuana business license or a retail marijuana business license pursuant to any State or local licensing law, rule or regulation, or had such license suspended or revoked.*

- ii. *Denied an application for a liquor license pursuant to Article 3 or 4 of Title 44, C.R.S., or by any similar State or local licensing law, rule, regulation or had such license suspended or revoked.*
- iii. *Convicted, entered a plea nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to possession, use, or possession with intent to distribute narcotics, drugs or controlled substances.*
- iv. *Convicted, entered a plea of nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to driving or operating a motor vehicle while under the influence or while impaired by alcohol or controlled substances.*
- v. *The applicant shall not be ineligible based on a criminal conviction as defined by CRS § 44-10-307 as amended.*
- g. *Proof that the applicant will have ownership or legal possession and control of the premises proposed for the retail marijuana business for the term of the proposed license. Purchase contracts for real estate may not include a contingency for licensure. "Backup contracts" will not be accepted as evidence the applicant has control of the property. Similarly, leases may not include a contingency for licensure.*
- h. *Proof of insurance as follows:*
  - i. *Workers compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of work related to the operation of the retail marijuana business; and*
- i. *Comprehensive general liability insurance with minimum single limits of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate, applicable to all premises and operations.*
- j. *An operating plan for the proposed retail marijuana business including the following information:*
  - i. *A description of the products and services to be sold or provided by the retail marijuana business.*
  - ii. *A dimensioned floor plan of the proposed premises clearly labeled, showing:*
    - 1. *The layout of the structure and the floorplan in which the retail marijuana business will be located including information sufficient to prove compliance with ventilation, security and other structural requirements contained therein;*
    - 2. *The principle uses of the floor area depicted on the floorplan including but not limited to storage areas, retail sales areas and restricted areas where marijuana will be centered and located; and*
    - 3. *Areas where any services other than the cultivation, distribution or sale of retail marijuana is proposed to occur on the licensed premises.*
    - 4. *That the retail floor space will not exceed 1000 square feet.*
- k. *For a retail marijuana testing facility or retail marijuana products manufacturing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or the testing of any marijuana, and*

*verification of compliance with all applicable State and local laws for ventilation and safety measures for each process.*

- l. The maximum amount of retail marijuana or retail marijuana products that may be on the business premises at any one time expressed in grams of marijuana and units of marijuana- infused products.*
- m. A security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law, rule or regulation. The applicant may submit the portions of such security plan which include trade secrets or specialized security arrangements confidentially. The Town will not disclose the documents appropriately submitted under the Colorado Open Records Act, Sections 24-72-201 et seq., C.R.S. if they constitute confidential trade secrets or specialized security arrangements to any party other than law enforcement agencies, unless compelled to do so by court order. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document.*
- n. A business plan demonstrating applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The plan shall indicate necessary capital improvements and the estimated cost thereof, an estimate of first year revenues and operating expenses, and evidence that the applicant will have the resources necessary to pay for such expenses.*
- o. A lighting plan showing the illumination of the outside area of the retail marijuana business for security purposes that meets the requirements of Article V of this Code.*
- p. A vicinity map drawn to scale, indicating within a radius of one-quarter (¼) mile from the boundaries of the property upon which the retail marijuana business is to be located, the proximity of the property to any school.*
- q. Fingerprints and personal histories for all owners and parties having a financial interest in the proposed retail marijuana business as defined in this Article. All such individuals shall be subject to a criminal background check in conjunction with the license application and review conducted by the Colorado Bureau of Investigation pursuant to Section 44-10-307, C.R.S.*
- r. A plan for disposal of any retail marijuana or product that is not sold or is contaminated in a manner that protects any portion thereof from being possessed or ingested by a person or animal.*
- s. A plan for ventilation that describes the ventilating systems that will be used to prevent any odor of marijuana from extending beyond the premises of the business. A best available filtration system shall be required and carbon filtration is strongly encouraged by the Town.*
- t. If applicable, a plan showing that the cultivation operation will emit light outside of the licensed premises.*
- u. If applicable, a plan showing that the cultivation operation will not burden the Town's wastewater treatment facility.*
- v. A description of all toxic, flammable or other materials regulated by federal or State government that would have authority over the business if it was not a retail marijuana*

*business, that will be used, kept or created at the retail marijuana business and the location where such materials will be Centered.*

- w. An application for a retail marijuana business license shall be accompanied by the application fee, operational fee, criminal background fee, if any, together with any other applicable fees that may be established by resolution of the Board of Trustees.*
- x. An application for a retail marijuana business license shall be accompanied by a completed State Licensing Authority application, including all subparts thereof, without attachments.*

#### *Sec. 2.14. Inspection required.*

- 1. An inspection of the proposed retail marijuana business by the Town Manager, Town's Marshal's Office and the Town Building Official shall be required prior to actual issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any retail marijuana or marijuana products, and prior to the opening of the business to the public. The purpose of the inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted, the applicable requirements of this Article, and any other applicable law, rule or regulation such as building codes and fire codes.*
- 2. The Building Official or designee shall conduct an annual fire and life safety inspection conducted by the Town Building Official is required for renewal of licenses.*

#### *Sec. 2.15. Issuance of license.*

- 1. The Dolores Local Licensing Authority shall not issue a retail marijuana business license until the inspection, background checks, and all other information available to the Town have been found to verify that the applicant:*
  - a. Has submitted a full and complete application;*
  - b. Has made improvements to the business premises consistent with the application;*
  - c. Is prepared to operate the business with the owners and business managers as set forth in the application, all in compliance with the provisions of this Article and any other applicable law, rule or regulation;*
  - d. Has paid all required fees; and*
  - e. Is otherwise in compliance with all other provisions of this Article and any other applicable provisions of the Dolores Municipal Code and the Colorado Marijuana Code, and the regulations promulgated thereunder.*

#### *Sec. 2.16. Release of information.*

- 1. Any signature on an application for the issuance, transfer or modification of a license for a retail marijuana business or for a change in business manager or other amendment to the license shall constitute a release for purposes of allowing the Town to conduct investigations regarding the personal histories of all interested parties and shall constitute a consent to the release of any information*

obtained by the Town through such process as a public record under the Colorado Open Records Act, including, but not limited to, criminal history reports conducted by the Town or any other authorized agency and all financial disclosures obtained by the Town or any other entity.

#### *Sec. 2.17. License fees and charges.*

1. *Applicants for retail marijuana business licenses or existing licensees shall pay the following fees (which are in addition to any state license fees, whether or not shared with the Town and in addition to any applicable fees required under the Town Land Use Code and Building Code):*
  - a. *New license for retail marijuana Center application fee \$1,000.00).*
  - b. *New license for retail marijuana cultivation facility application fee \$1,000.00.*
  - c. *New license for retail marijuana manufacturing facility application fee \$1,000.00.*
  - d. *New license for retail marijuana testing facility application fee \$1,000.00.*
  - e. *Annual Operating Fee \$1,500.00.*
  - f. *Renewal of existing retail marijuana business license application fee \$1,000.00.*
2. *The fees above apply to each license issued, and a business with multiple locations in the Town must pay separate fees for each location. The appropriate fees must be paid in conjunction with any application or request before the Town will process or act upon forms submitted. All fees are non-refundable in the entirety. No fees previously paid by a licensee in connection with a license shall be refunded if the licensee's license is subsequently suspended or revoked.*

#### *Sec. 2.18. Persons prohibited as licensees and business managers.*

1. *The criteria for determination of those persons who are not eligible to receive a retail marijuana business license or to act as a business manager of such an establishment shall be as provided in this Article V and in Section 44-10-307, C.R.S.*
2. *No license approval provided by this Article shall be issued to or held by:*
  - a. *Any person whose criminal history indicates the person is not of good moral character;*
  - b. *Any corporation, any of whose officers', directors' or stockholders' criminal histories and record indicate such person is not of good moral character;*
  - c. *Any partnership, association, or company, any of whose officers', or any of whose members', criminal histories and record indicate such person is not of good moral character;*
  - d. *Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history and record indicate such person is not of good moral character;*
  - e. *Any cooperative association, any of whose officers', directors', or stockholders' or members' criminal histories and record indicate that such person is not of good moral character;*
  - f. *A person under twenty-one (21) years of age;*



- g. *A person approved pursuant to this Article who, during a period of licensure or approval, or who, at the time of application, has failed to:
 
    - i. *File any tax return with a taxing agency related to the operation of a retail marijuana business or medical marijuana business;*
    - ii. *Pay any taxes, interest, or penalties due to a taxing agency relating to the operation of a retail marijuana business or medical marijuana business.**
  - h. *A person deemed ineligible based on a criminal conviction as defined by CRS § 44-10-307 as amended.;*
  - i. *A person who employs another person at a retail marijuana business who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;*
  - j. *A sheriff, deputy sheriff, town marshal, or prosecuting officer, or an officer or employee of the State Licensing Authority or the Local Licensing Authority;*
  - k. *A person applying for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant.*
3. *In investigating the qualifications of an applicant or a licensee, the Local Licensing Authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Local Licensing Authority considers the applicant's criminal history record, the Local Licensing Authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a retail marijuana business license. As used in this Section, "criminal justice agency" means any federal, State or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.*
4. *The focus of the inquiry into the character of any person associated with the operation of a retail marijuana business shall be whether the person's character is such that violations of State law or municipal ordinances pertaining to the possession and distribution of marijuana and/or the operation of retail marijuana business would be likely to result if a license were granted.*
5. *A direct beneficial interest owner who is a natural person must either:*
- a. *Have been a resident of Colorado for at least one (1) year prior to the date of the application; or*
  - b. *Be a United States citizen prior to the date of the application. A retail marijuana business may be comprised of an unlimited number of direct beneficial interest owners that have been residents of Colorado for at least one (1) year prior to the date of application. A retail marijuana business that is comprised of one (1) or more direct beneficial interest owners who have not been Colorado residents for at least one (1) year prior to submittal of the application shall have at least one (1) officer who has been a Colorado resident for at least one (1) year prior to submittal of the application and all officers with day to day operational control over the business must become Colorado residents for at least one (1) year prior to the submittal of the application. A retail marijuana business is limited to*

*no more than fifteen (15) direct beneficial interest owners, including all parent and subsidiary entities, all of whom are natural persons. A direct beneficial interest owner that is a closely held business entity must consist entirely of natural persons who are United States citizens prior to the date of the application, including all parent and subsidiary entities.*

6. *A retail marijuana business may include qualified institutional investors that own thirty percent (30%) or less of the retail marijuana business.*
7. *A person who intends to apply as a direct beneficial interest owner shall first submit a request to the State Licensing Authority for a finding of suitability as a controlling beneficial interest owner. The person shall receive a finding of suitability prior to submitting an application to the State Licensing Authority to be a direct beneficial interest owner. Failure to receive a finding of suitability prior to application shall be grounds for denial by the State Licensing Authority or Local Licensing Authority.*
8. *The State Licensing Authority shall perform a limited initial background check on qualified limited passive investors. If the initial background check provides reasonable cause for additional investigation, the State Licensing Authority may require a full background check. The State Licensing Authority shall review the retail marijuana business's operating documents to ensure compliance with this Section.*
9. *For the purposes of this subsection, unless the context otherwise requires, "institutional investor" means:*
  - a. *An employee benefit plan or pension fund that is subject to the federal "Employee Retirement Income Security Act of 1974", as amended, excluding employee benefit plan or pension funds sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns five percent (5%) or more of a licensee;*
  - b. *A State or federal government pension plan;*
  - c. *A group comprised entirely of persons specified above; or*
  - d. *Any other entity identified through rule by the State Licensing Authority.*

#### *Sec. 2.19. Issuance or denial of approval.*

1. *In determining whether to issue an approval of an application for possible granting of a license in accordance with Sections 2.8 and 2.9, the Local Licensing Authority may consider the following:*
  - a. *Whether the application is complete and signed by the applicant;*
  - b. *Whether the applicant has paid the application fee, license fee and the annual operating fee;*
  - c. *Whether the application complies with all of the requirements of this Article, the Colorado Marijuana Code, and rules promulgated by the State Licensing Authority;*
  - d. *Whether the application contains any material misrepresentations;*
  - e. *Whether the proposed retail marijuana business, retail marijuana cultivation facility or retail marijuana products manufacturing facility complies with the Town's Land Use Code. The Local Licensing Authority shall make specific findings of fact with respect to whether the building in which the proposed retail marijuana Center will be located conforms to the distance requirements set forth in Section 2.11; and*

- f. *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.*
2. *The Local Licensing Authority may deny the approval of an application for good cause as defined in Colorado Marijuana Code. If an application is administratively denied, the applicant may appeal such denial to the full Local Licensing Authority by filing a notice of appeal with the Town Clerk within fifteen (15) days following issuance of the decision denying the application. Said notice shall state the grounds for such appeal. Such appeal shall be heard by a hearing officer duly appointed by the Local Licensing Authority. Following a hearing and an opportunity for applicant to be heard, the hearing officer shall recommend to the Local Licensing Authority that the appeal be affirmed or denied.*
3. *The Local Licensing Authority may impose reasonable conditions upon any license approval or renewal issued pursuant to this Article.*
4. *After the initial granting of a retail marijuana Center license or retail marijuana cultivation facility license, if such license later becomes available, the Town Clerk may publish the availability of the license and the procedures set forth in Section 2.9 shall be followed.*
5. *No person shall own, operate, manage, control or hold a direct beneficial interest in more than one (1) retail marijuana Center within the Town of Dolores.*
6. *The Local Licensing Authority shall issue its decision approving or denying the application within thirty (30) days following completion of the application investigation by Town staff and completion of a determination of the priority for license applicants for retail marijuana Centers and retail marijuana cultivation facilities described in Section 6-108. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.*
7. *An applicant must file its application to the State Licensing Authority within thirty (30) days following notification that the Local Licensing Authority has approved its application. Such applicant shall also set an appointment with the State Licensing Authority regarding such application. Failure to do so shall render the Local Licensing Authority's approval null and void and of no effect.*
8. *The Town Clerk shall not actually issue a license to an approved applicant until the applicant has been issued a license by the State Licensing Authority.*

### *Sec. 2.20 Renewal of license*

1. *A licensee may renew its retail marijuana business license by submitting an application to the Town Clerk at least forty-five (45) days before and not more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of its license at least forty-five (45) days before expiration of the license, the license shall expire.*
2. *A licensee may renew a license that has expired if:*
  - a. *The license has expired for less than thirty (30) days; and*
  - b. *The licensee pays the regular renewal fee and an additional \$500.00 late renewal fee.*
3. *If the applicant is not eligible for reinstatement of an expired license by the State Licensing Authority, the applicant is subject to the procedures and fees provided in the Code for a new license application.*

4. *In the event an application for renewal has been filed at least forty-five (45) days before the expiration of the previous permit, but the Local Licensing Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Local Licensing Authority issues a decision on the application for renewal, but in no event may the license be extended for more than ninety (90) days.*
5. *The Local Licensing Authority may renew a license without a public hearing. However, if the Local Licensing Authority believes there may be good cause to deny the application for renewal, the Local Licensing Authority shall hold a public hearing on the application. The licensee shall have an opportunity to be heard at the hearing and shall be given at least fifteen (15) days written notice of the date and time of the public hearing on the application for renewal.*
6. *The Building Official or designee shall conduct a fire and life safety inspection prior to the renewal of the license.*

#### *Sec. 2.21. Contents and display of approval.*

1. *The approved licensee shall post the certificate of approval by the Local Licensing Authority in a conspicuous location on the premises. A retail marijuana business approval shall contain the following information:*
  - a. *Type of approval;*
  - b. *The name of the licensee;*
  - c. *The date of issuance of the approval;*
  - d. *The street address at which the licensee is authorized to operate the retail marijuana business;*
  - e. *Any conditions of approval imposed upon the license by the Local Licensing Authority;*
  - f. *The date of expiration of the approval; and*
  - g. *The signature of the Town Clerk.*

#### *Sec. 2.22. Transfer/changes in ownership structure.*

1. *License approvals held by natural persons may not be transferred. In the event a natural person or persons holding a license sell the associated retail marijuana business, the purchaser shall be entitled to apply for a new retail marijuana business license for the purchased business notwithstanding the provisions of Section 2.6. The purchaser shall be required to pay a new license application fee as set forth in Section 2.17. If the proposed sale or conveyance of a partial interest in a retail marijuana business to a person who previously did not own ten percent (10%) or more of the retail marijuana business will, after the sale, result in the person owning ten percent (10%) or more of the retail marijuana business, the licensee shall apply for a change in ownership structure, which the Local Licensing Authority shall process as a new license approval application by the new owner. A State license for a*

*retail marijuana business is not transferrable except as provided in Section 44-10-312, C.R.S., as contained in the Colorado Marijuana Code.*

2. *License approvals held by partnerships, corporations, limited liability companies, or other business entities are not transferrable and terminate automatically upon dissolution of the entity. If the proposed sale or conveyance of any interest in the entity to a person who previously did not own ten percent (10%) or more of the business will, after the sale, result in the person owning ten percent (10%) or more of the entity, the licensee shall apply for a change in ownership structure, which the Local Licensing Authority shall process as a new license approval application by the new owner notwithstanding the limitation for retail marijuana Centers contained in Section 2.6.*
3. *Changes in ownership structure that do not result in a person increasing that persons interest from less than ten percent (10%) to more than ten percent (10%) shall be reported to the Local Licensing Authority and may be approved administratively by the Town Clerk.*

### *Sec. 2.23. Change of location.*

1. *A licensee may move its permanent location to another location in the Town, but it shall be unlawful to cultivate, manufacture, distribute, or sell retail marijuana at any such place until permission to do so is granted by the Local Licensing Authority and the State Licensing Authority.*
2. *In permitting a change of location, the Local Licensing Authority shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this Article II, the Town's Land Use Code, the Colorado Marijuana Code, and rules promulgated by the State Licensing Authority, as well as other specific regulations required in this document.*
3. *The Local Licensing Authority shall not authorize a change of location until the applicant produces a license issued and granted by the State Licensing Authority covering the period for which the change of location is sought.*

### *Sec. 2.24. Suspension or revocation of a license.*

1. *A license approval pursuant to this Article may be suspended or revoked by the Local Licensing Authority or a hearing officer appointed by the Local Licensing Authority after a hearing for the following reasons:*
  - a. *Fraud, misrepresentation, or a false statement of material fact contained in the license application;*
  - b. *Any violation of the Dolores Municipal Code or State law pertaining to the operation of a retail marijuana business including regulations adopted by the State Licensing Authority, for the possession or distribution of marijuana or manufacturing of retail marijuana products;*
  - c. *A violation of any of the terms and conditions of its license;*
  - d. *A violation of any of the provisions of this Article.*
2. *In deciding whether a retail marijuana business license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the Local Licensing Authority shall consider:*

- a. *The nature and severity of the violation;*
  - b. *Corrective action, if any, taken by the licensee;*
  - c. *Prior violation(s), if any, by the licensee;*
  - d. *The likelihood of a reoccurrence of the violation;*
  - e. *The circumstances of the violation;*
  - f. *Whether the violation was willful; and*
  - g. *Previous sanctions if any imposed on the licensee.*
3. *The provisions of Part 6 of the Colorado Marijuana Code shall govern proceedings for the suspension or revocation of a license granted pursuant to this Article. The Local Licensing Authority may not impose a fine in lieu of a suspension as authorized under the provisions of the Colorado Marijuana Code.*

*Sec. 2.25. Operational requirements—General.*

1. *A retail marijuana business shall be operated and maintained strictly in accordance with the license application.*
2. *All retail marijuana business shall collect and remit all applicable State, County and Town sales taxes, occupation taxes, excise taxes or other lawfully imposed tax in a timely manner.*
3. *No marijuana or products containing marijuana shall be smoked, eaten or otherwise consumed or ingested within the retail marijuana business.*
4. *No person under twenty-one (21) years of age shall be allowed within the business premises of a retail marijuana business. No person shall be allowed entry into the business premises without showing a valid picture identification in accordance with the requirements of the Colorado Marijuana Code.*
5. *Any and all possession, storage, display or sales or other distribution of marijuana and testing of marijuana shall occur only within the restricted area of a retail marijuana business or retail marijuana testing facility and shall not be visible from the exterior of the business.*
6. *Each licensee shall manage the licensed premises himself or herself or employ a separate business manager on the premises. The licensee shall report any change in business manager to the Town within seven (7) days after the change.*
7. *The retail marijuana business shall not maintain any quantity of marijuana within the licensed premises in excess of the amount stated on the license application to the Town.*
8. *It shall be unlawful for any retail marijuana business to employ any person who is not at least twenty-one (21) years of age. All business managers and employees of any licensee shall possess a valid occupational license and identification badge issued by the State of Colorado.*
9. *Retail marijuana business shall provide adequate security on the business premises, which shall include the following:*
  - a. *Twenty-four (24) hour security surveillance color cameras to facilitate the investigation of crimes, with a redundant power supply and circuitry to monitor entrances/exits and the parking lot, if applicable, with the interior and exterior of the premises. Security video and audio shall be preserved for a minimum of forty (40) days in a secure off-site location in the Town or through a service over a network that provides on-demand access, commonly referred to as the "cloud". The owner shall provide segments of*

*surveillance footage upon request to law enforcement officers investigating crimes committed against the establishment or its customers. The owner shall be required to produce surveillance footage disclosing the identity of customers and shall not edit surveillance footage to protect customer privacy. The resolution of these color cameras shall be of sufficient quality to allow for the identification of the subjects' facial features, in all lighting conditions, in the event of a crime;*

- b. An NFPA 72 compliant fire/burglar system that is professionally monitored and maintained in good working order and inspected annually by a certified 3rd party; An NFPA 13 compliant fire suppression system that is professionally monitored and maintained in good working order and inspected annually by a certified 3rd party; any change in monitoring of the life safety systems requires notification to the Town within 72 hours; a locking safe permanently affixed to the premises suitable for storage of inventory and cash, all to be Centered during non-business hours. Live plants being cultivated shall not be deemed inventory requiring storage in a locked safe;*
- c. Exterior lighting that illuminates the exterior walls of the establishment shall comply with the provisions of Article V of this Code and the Dolores Land Use Code;*
- d. No firearms, knives, or other weapons shall be permitted in a retail marijuana Center except those carried by sworn peace officers, those carried by persons having concealed weapons permits, and those carried by security personnel employed by the retail marijuana Center or its contractor.*
- e. The Dolores Town Marshal or other appropriate Town employee shall report to the Town Clerk all violations of this Article and other applicable State and local laws and the Town Clerk shall maintain a record of each license issued and record the reports of the violations in such records.*

#### *Sec. 2.26. Operational requirements—Retail marijuana Centers.*

- 1. Retail marijuana Centers may only be open to the public between the hours of 8:00 a.m. and 9:00p.m. daily, and no sale or other distribution of marijuana may occur upon the premises outside of those hours. A licensed cultivation facility in Dolores or its contracted agent may deliver marijuana and marijuana products as permitted by Colorado law on any day of the week and at any time except between the hours of 6:00 a.m. and 4:00p.m..*
- 2. For retail marijuana Centers, the odor of marijuana must not be perceptible at the exterior of the building, the exterior of the licensed premises, or at any adjoining use of the property. Retail marijuana Centers must use the best available filtration system such as carbon air filter scrubbers or charcoal filtration systems.*
- 3. Prior to initiating a sale, the employee of a retail marijuana Center making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one (21) years of age or older. If a person under twenty-one (21) years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this Article. If a retail marijuana Center licensee or employee has reasonable cause to believe that a person is*

*under twenty-one (21) years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or marijuana infused products, the licensee or employees are authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two (72) hours after the confiscation, remit the same to a State or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to remit the same to a State or local law enforcement agency within seventy-two (72) hours after the confiscation does not constitute a criminal offense. If a retail marijuana Center licensee or employee believes that a person is under twenty-one (21) years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or retail marijuana infused products, the licensee or employee, or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether a person is guilty of any unlawful act regarding the purchase of retail marijuana. The questioning of a person by the licensee or an employee does not render the licensee or the employee civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.*

4. *Any sale of retail marijuana by a retail marijuana Center shall be made in person, directly to the purchaser, within the restricted area of the retail marijuana Center. No sale shall be made by a telephone, internet or other means of remote purchase. Delivery shall occur only in person to the purchaser at the time of purchase within the restricted area of the retail marijuana Center. Vending machines are prohibited.*
5. *Drive in or drive through retail marijuana Center facilities shall not be permitted.*
6. *All retail marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana, specifies the amount of marijuana in the product, and that the marijuana is intended for use solely by a person lawfully possessing retail marijuana. The label shall be in compliance with all applicable requirements of the State of Colorado.*
7. *Retail marijuana Centers shall provide customers with the contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.*
8. *Marijuana shall not be consumed or used on the premises of a retail marijuana Center and it shall be unlawful for a retail marijuana Center licensee to allow marijuana to be consumed upon its licensed premises. In the case of a retail marijuana Center located in a structure with a legal secondary unit or other legal dwelling unit, the secondary unit or dwelling unit shall not be considered part of the retail marijuana Center premises if access to such unit is prohibited to the retail marijuana Center customers.*

#### *Sec. 2.27. Operational requirements—Retail marijuana cultivation facilities.*

1. *Retail marijuana cultivation facilities may conduct business operations on the licensed premises at any time. However, shipping and receiving of products and supplies at the retail marijuana cultivation facility shall only occur between the hours of 4:00 a.m. and 10:00 p.m. on any day of the week.*



2. *A ventilation and filtration system shall be installed in every retail marijuana cultivation facility. A best available filtration system, such as carbon air filter scrubbers or a charcoal filtration system shall be used.*
3. *Only indoor retail marijuana cultivation facilities shall be permitted and shall be construed and operated in a manner to prevent light from growing operations to be visible outside of the structure.*

*Sec. 2.28. Operational requirements—Retail marijuana products manufacturing.*

1. *Retail marijuana product manufacturing facilities may conduct business operations on the licensed premises at any time. However, shipping and receiving of products and supplies shall only occur between the hours of 6:00am. and 10:00 p.m. daily.*
2. *A retail marijuana products manufacturing facility shall have a best available filtration system, such as carbon air filter scrubbers or charcoal filtration system.*
3. *A retail marijuana product manufacturing facility shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as a part of production.*

*Sec. 2.29. Operational requirements—Retail marijuana testing facilities.*

1. *Retail marijuana testing facilities may conduct business operations on the licensed premises at any time. However, shipping and receiving of materials, supplies and retail marijuana or retail marijuana products shall only occur between the hours of 4:00 a.m. and 10:00 p.m. daily.*
2. *A retail marijuana testing facility shall contain a best available filtration system, such as carbon air filter scrubbers or a charcoal filtration system.*
3. *A retail marijuana testing facility shall contain appropriate ventilation systems to mitigate noxious gases or other fumes used or created as a part of testing procedures.*
4. *All retail marijuana testing facilities shall operate in compliance with all applicable State laws and regulations adopted pursuant to such laws including, but not limited to, Section 44-10-604, C.R.S.*

*Sec. 2.30. Requirements relating to monitoring and security of restricted areas and inventory.*

1. *All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored and secured twenty-four (24) hours per day. A separate security system is required for each business. A security plan must include, at a minimum, the following security measures:*
  - a. *Cameras. Retail marijuana business shall include and use security color cameras to monitor and record all areas of the premises (excluding restrooms), including all areas where persons may gain or attempt to gain access to marijuana or cash maintained by the retail marijuana business. Cameras shall record operations of the business to an off-site location, and shall record all potential areas of ingress or egress to the business with*

sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained by the licensee for a minimum of forty (40) days in a secure off-site location in the Town or through a service over a network that provides on-demand access, commonly referred to as a "cloud".

- b. *Storage. The retail marijuana business shall install and use a safe or safe room for storage of any inventory, processed marijuana and cash on the premises when the business is closed to the public. Safe rooms shall be incorporated into the building structure and shall have solid core doors with commercial grade locks and shall be visible through the surveillance camera system. For retail marijuana products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the Town in place of the use of a safe or safe room so long as the container is affixed to the building structure and visible through the surveillance camera system.*
- c. *NFPA 72 Compliant Fire Alarm-Burglar Alarm system. The retail marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the Town shall identify the company monitoring the alarm system, including contact information. Any modification relative to the company monitoring the alarm system shall be reported to the Town within seventy-two (72) hours.*

### *Sec. 2.31. Signage and advertising.*

1. *All exterior signage associated with the retail marijuana business must meet the standards established in Town's Land Use and Development Code. In addition, no exterior signage shall use the word "marijuana", "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana.*
2. *A retail marijuana business may not advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors.*
3. *Except as otherwise provided in this Section, it shall be unlawful for any person licensed under this Article or any other person to advertise any retail marijuana business or any retail marijuana infused product anywhere within the Town where the advertisement is in plain view of, or in, a place open to the general public, including advertising and using any of the following media: any billboard or other outdoor general advertising device; any sign mounted on a vehicle; any handheld or other portable sign; or any hand bill, leaflet or flyer directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition set forth in this Section shall not apply to:*
  - a. *Any sign located on the licensed premises of a retail marijuana business which exists solely for the purpose of identifying the location of the premises and which otherwise complies with this Article, the Town's Land Use and Development Code and any other applicable Town laws and regulations; or*
  - b. *Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the Town or on the internet.*

4. *No retail marijuana business shall distribute or allow the distribution of any marijuana without charge within a retail marijuana business or at any other place in the Town for purposes of promotion, advertising, or any other similar purpose.*

*Sec. 2.32. Right of Entry—Records to be maintained and inspection procedures.*

1. *Each licensee of a retail marijuana business shall keep and maintain a complete set of books of accounting, invoices, copies of orders and sales, shipping receipts, bills of lading, correspondence, and all other records necessary to fully document the business transactions of such licensee. The licensee shall also maintain records which verify that the amount of marijuana within the retail marijuana business does not exceed the amount allowed. All such records shall be open at all times during business hours for inspection and examination by the Town Manger, the Building Official, the Town Marshal, or their duly authorized representatives. The Town may require the licensee to furnish such information as it considers necessary for the proper administration of this Article. The records shall clearly show the source, amount, price and dates of all retail marijuana received or purchased, and the amount, price, and dates for all retail marijuana sold.*
2. *By accepting the retail marijuana business license, licensee consents to the disclosure of the information required by this Section.*
3. *The Town may require an audit of the books of account and records of the retail marijuana business as it may deem necessary. Such audit shall be made by an auditor selected by the Town, who shall have access to all books and records of such licensee. The expense of any audit determined to be necessary by the Town shall be paid by the Town; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes, occupation taxes or excise taxes due to the Town, the expense of the audit shall be paid by the licensee.*
4. *The acceptance of a retail marijuana business license from the Town constitutes consent by the licensee, owners, business managers and employees of such business to permit the Town Manager, Town Marshal, Building Official, or their representatives to conduct routine inspections of the licensed retail marijuana business to assure that the retail marijuana business and the premises are being operated and maintained in accordance with the terms set forth in the application and that all operations in the premises remain in compliance with this Article, the Colorado Marijuana Code, and any rules or regulations promulgated thereunder.*
5. *All retail marijuana business shall be required to obtain applicable State and Town licenses and shall collect and remit all applicable State, County and Town sales taxes, occupation taxes and excise taxes in a timely manner. The retail marijuana business license and sales tax license for the business shall be conspicuously posted in the business.*

*Sec. 2.33. Compliance with other applicable laws.*

1. *Except as may be otherwise provided in this Article, or rules or interpretations adopted by the Town, any law or regulation adopted by the State of Colorado governing the cultivation, production, possession, distribution or testing of marijuana for retail or recreational use shall*

*also apply to retail marijuana business licensed within the Town. Provided, however, if a State law or regulation permits what this Article prohibits, this Article shall control.*

*Sec. 2.34. Violations; penalty.*

- 1. Any person, other than a licensee of a retail marijuana business, who violates any provision of this Article shall be deemed guilty of a municipal offense and may be punished by a fine not to exceed three hundred and ninety nine dollars (\$399.00), imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.*
- 2. Any licensee of a retail marijuana business who violates any provisions of this Article shall be subject to civil penalties of up to one thousand dollars (\$1,000.00) for each day during which such violation occurs or continues. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Following notice and hearing, the Local Licensing Authority may impose such civil penalties.*

## *ARTICLE III Marijuana Occupation Tax*

*Sec. 3.1. Purpose.*

- 1. The Board of Trustees of the Town of Dolores hereby finds, determines and declares:
  - a. For the purposes of this Article, every person that furnishes medical marijuana to a patient or a medical marijuana-infused products manufacturer or to other medical marijuana centers for consideration in the Town of Dolores, every retail marijuana Center that furnishes retail marijuana, retail marijuana products or retail marijuana accessories to a consumer for consideration in the Town of Dolores, every retail marijuana cultivation facility that cultivates and sells retail marijuana to a retail marijuana Center or retail marijuana product manufacturer for consideration in the Town of Dolores, and every retail marijuana product manufacturing facility that furnishes retail marijuana products to retail marijuana Centers for consideration in the Town of Dolores is exercising a taxable privilege. The purpose of this Article is to impose a tax which will be paid by every vendor providing medical marijuana, retail marijuana, retail marijuana products and cultivated retail marijuana in the town of Dolores, which tax will provide revenues for the Town of Dolores;*
  - b. The provision of medical marijuana to patients and certain medical marijuana businesses and the provision of retail marijuana and retail marijuana products to consumers, retail marijuana Centers and retail marijuana product manufacturers results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial affect upon the health, safety and welfare of the citizens of the Town of Dolores and upon the expenditures budgeted by the town, which is a matter of local concern; and*
  - c. The classification of medical marijuana centers, retail marijuana Centers, medical and retail marijuana- infused products manufacturing facilities and retail marijuana cultivation facilities as separate businesses and occupations is reasonable, proper,**

*uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.*

### *Sec. 3.2. Definitions.*

1. *The following words and phrases used in this Article shall have the following meanings unless the context clearly indicates otherwise:*
  - a. *Medical marijuana means marijuana that is grown and sold for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.*
  - b. *Medical marijuana business means the use of a property or portion thereof, for the production, cultivation, manufacture, storage, distribution, acquisition or sale of marijuana, including the use of property for medical marijuana centers, medical marijuana-infused products manufacturers and optional premises cultivation facilities, whether any such use is for profit or not for profit.*
  - c. *Medical marijuana center means a person licensed to operate a business as described in the Colorado Marijuana Code that sells medical marijuana and medical marijuana-infused products at retail to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.*
  - d. *Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Marijuana Code to operate a business manufacturing medical marijuana-infused products.*
  - e. *Occupation Tax means a tax on each sales transaction of medical marijuana or retail marijuana as Defined in this Article III.*
  - f. *Patient has the meaning set forth in Article XVIII, Section 14(1)(c) of the Colorado Constitution.*
  - g. *Primary caregiver has the meaning set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution.*
  - h. *Person means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado and any political subdivision thereof.*
  - i. *Retail marijuana means marijuana that is cultivated, manufactured, distributed or sold by a licensed retail marijuana business.*
  - j. *Retail marijuana business means the use of a property or portion thereof, for the production, cultivation, manufacture, storage, distribution, acquisition or sale of retail marijuana including the use of property for retail marijuana Centers, retail marijuana cultivation facilities and retail marijuana products manufacturing facilities, whether any such use is for profit or not-for-profit.*
  - k. *Retail marijuana cultivation facility means a "marijuana cultivation facility" as defined in Section 16(2)(h) of Article XVIII of the Colorado Constitution.*
  - l. *Retail marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana Centers, but not to consumers.*

- m. *Retail marijuana products means "marijuana products" as defined in Section 16(2)(k) of Article XVIII of the Colorado Constitution that are produced at a retail marijuana products manufacturing facility.*
- n. *Retail marijuana Center means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products at retail to consumers.*
- o. *Sale means the furnishing for consideration by any person of medical marijuana or retail marijuana within the Town.*
- p. *Tax means the tax payable by the vendor or the aggregate amount of taxes due from a vendor during the period for which the vendor is required to pay the occupation tax on the sales of medical marijuana or retail marijuana under this Article.*
- q. *Taxpayer means the vendor obligated to pay the tax under the terms of this Article.*
- r. *Vendor means a person furnishing medical marijuana to a patient or to a medical marijuana- infused products manufacturer or to a medical marijuana center for consideration within the Town, or a person furnishing cultivated retail marijuana to a retail marijuana Center or to a retail marijuana products manufacturer, or furnishing retail marijuana or retail marijuana products to consumers for consideration.*

*Sec. 3.3. Levy of taxes.*

1. *Medical Marijuana Centers. Pursuant to the authority granted by the Town's registered electors voting at the April 7, 2020 municipal election, there is hereby levied by the Town of Dolores an occupation tax in the amount of three dollars (\$3.00) per sales transaction on:*
  - a. *The provision of medical marijuana by medical marijuana centers to patients for consideration within the Town of Dolores;*
  - b. *The provision of medical marijuana-infused products to other medical marijuana centers for consideration, within the Town of Dolores;*
  - c. *The provision of medical marijuana by medical marijuana optional premises cultivation facilities to medical marijuana centers or medical marijuana-infused products manufacturers within the Town of Dolores.*
2. *Retail Marijuana Businesses. Pursuant to the authority granted by the Town's registered electors voting at the April 7, 2020 municipal election, there is hereby levied by the Town of Dolores an occupation tax in the amount of three (\$3.00) per sales transaction on:*
  - a. *The provision of retail marijuana, retail marijuana products, and retail marijuana accessories by any retail marijuana Center for consideration within the Town of Dolores;*
  - b. *The provision of retail marijuana by a retail marijuana cultivation facility to any retail marijuana Center, retail marijuana product manufacturing facility, or other retail marijuana cultivation facility for consideration within the Town of Dolores;*
  - c. *The provision of retail marijuana and retail marijuana products by any retail marijuana product manufacturing facility to retail marijuana Centers or other retail marijuana product manufacturing facilities for consideration within the Town of Dolores.*

### *Sec. 3.4. Exemptions.*

1. *This Article shall not be applicable to transactions between a patient and a primary caregiver when acting in accordance with all applicable provisions of Article XVIII, Section 14(1)(c) of the Colorado Constitution, Section 44-10-101, et. seq., C.R.S., Section 25-1.5-106, C.R.S., and the regulations promulgated by the Colorado Department of Public Health and Environment, Colorado Department of Revenue or any other agency with regulatory authority concerning medical marijuana.*

### *Sec. 3.5. Collection of tax.*

1. *Every vendor providing medical marijuana or retail marijuana taxable under this article shall remit such tax on or before the tenth day of each month on account of medical marijuana or retail marijuana transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.*
2. *The burden of proving that any transaction is exempt from the tax shall be upon the vendor.*
3. *If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than one hundred dollars (\$100.00) to make returns and pay taxes at intervals not greater than three (3) months.*
4. *It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this Article. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk or designee.*
5. *The tax to be paid by a vendor shall not be stated and charged separately from the sale price of medical marijuana or retail marijuana on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, such as a receipt provided, a vendor may indicate on the record or receipt the sale price "includes Town of Dolores Occupation Tax."*

### *Sec. 3.5. Audit of records.*

1. *For the purpose of ascertaining the correct amount of the occupation tax on medical marijuana or retail marijuana sales transactions due from any person engaged in such medical marijuana or retail marijuana business in the Town under this Article, the Town*

*Clerk or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.*

2. *All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination. Any such subpoena may be enforced by the Dolores Municipal Court.*
3. *Any exempt person claiming an exemption under the provisions of this Article is subject to audit in the same manner as any other person engaged in the sale of medical marijuana or retail marijuana in the Town.*

### *Sec. 3.6. Tax overpayments and deficiencies.*

1. *An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the occupation tax on the provision of medical marijuana or retail marijuana, she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Article, the difference together with the interest shall be paid by the medical marijuana business or retail marijuana business within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.*

### *Sec. 3.7. Tax information confidential.*

1. *All specific information gained under the provisions of this Article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Article, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Article or by law, shall be guilty of a violation hereof.*
2. *The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.*
3. *Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of*



*particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.*

### *Sec. 3.8. Forms and regulations.*

1. *The Town Manger is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said occupation tax on the provision of medical marijuana or retail marijuana and in particular and without limiting the general language of this Article, to provide for:*
  - a. *A form of report on the provision of medical marijuana or retail marijuana to be supplied to all vendors;*
  - b. *The records which medical marijuana businesses providing medical marijuana and medical marijuana-infused products and retail marijuana businesses providing retail marijuana, retail marijuana products and retail marijuana accessories are to keep concerning the tax imposed by this Article.*

### *Sec. 3.9. Enforcement and penalties.*

1. *It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the taxes imposed by this Article, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Article. Any person convicted of a violation of this Article shall be deemed guilty of a municipal offense, punishable by a fine of up to three hundred ninety nine dollars (\$300.00) and 90 days imprisonment or by both such fine and imprisonment. Each day, or portion thereof, that any violation of this Article continues shall constitute a separate offense.*
2. *A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the medical marijuana business or retail marijuana business and become due in the event the tax is not remitted by the tenth day of the month as required by this Article, or such other date as prescribed by the Town Clerk, and two and one-half percent (2.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.*
3. *If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the medical marijuana business or retail marijuana business required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.*
4. *If any medical marijuana business or retail marijuana business fails to make a return and pay the tax imposed by this Article, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the medical marijuana business*

*or retail marijuana business at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.*

- 5. Such petition shall be in writing and the facts and figures submitted shall be submitted in writing, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Article. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.*

#### *Sec. 3.10. Tax lien.*

- 1. The taxes imposed by this Article, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any town peace officer, the Montezuma County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.*
- 2. The taxes imposed by this Article shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.*

#### *Sec 3.11. Recovery of unpaid tax.*

- 1. The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.*
- 2. In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in*

- any county or district court of the county wherein the taxpayer resides or had a Controlling Beneficial Owner place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.
3. *The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.*
  4. *Such actions may be actions in attachment, and writs of attachment may be issued to the Montezuma County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.*
  5. *It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence an action for the recovery of taxes due under this Article and this remedy shall be in addition to all other existing remedies, or remedies provided in this Article.*
  6. *The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the Montezuma County Treasurer for collection in the same manner as delinquent ad valorem taxes pursuant to Section 31-20-105, C.R.S.*

#### *Sec. 3.12. Status of unpaid tax in bankruptcy and receivership.*

1. *Whenever the business or property of a taxpayer subject to this Article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Article and for which the taxpayer is in any way liable under the terms of this Article shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Article under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Article, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.*

#### *Sec. 3.13. Hearings, subpoenas and witness fees.*

1. *Hearings before the Town Clerk pursuant to provisions in this Article shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this Article may be enforced by the Dolores Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance.*

*When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Article, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his/her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.*

- 2. The Dolores Municipal Judge, upon the application of the Town Clerk or the taxpayer, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.*

#### *Sec. 3.14. Depositions.*

- 1. The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.*

#### *Sec. 3.15. Statute of limitation.*

- 1. Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Article shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three (3) year period when the notice of lien with respect to which has been filed prior to the expiration of such period.*
- 2. In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.*
- 3. Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.*

#### *Sec. 3.16. Exemption from revenue limitation.*

- 1. In accordance with the approval of the registered electors voting at the April 7, 2020 municipal election, the revenues derived from the tax imposed by this Chapter on medical marijuana businesses shall be collected and spent as a voter approved revenue change,*

*notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.*

- 2. In accordance with the approval of the registered electors voting at the April 7, 2020 municipal election, the revenues derived from the tax imposed by this Chapter on retail marijuana businesses shall be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.*

## **ARTICLE IV**      *Marijuana Excise Tax*

### *Sec. 4.1. Purpose.*

- 1. The Board of Trustees of the Town of Dolores, Colorado intends that a municipal excise tax be imposed on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility to a retail marijuana Center or retail marijuana products manufacturer within the Town. The purpose of this tax is to increase the revenue base for the Town of Dolores to fund the enforcement of regulations on the retail marijuana industry, other costs related to enforcement of marijuana laws, education and public health programs associated with marijuana consumption, and other Town expenses. All revenues from the tax shall be deposited in the Town's general fund. The excise tax levied by this Article was approved by a majority vote of registered Dolores electors voting at the April 7, 2020 municipal election.*

### *Sec. 4.2. Definitions.*

- 1. The following words and phrases used in this Article shall have the following meanings unless the context clearly indicates otherwise: Average market rate means the amount determined by the State of Colorado pursuant to Section 39- 28.8-101(1), C.R.S. as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana Center or retail marijuana products manufacturer. All other terms in this Article shall have the same meaning as set forth in Article II of this Ordinance, Licensing and Regulation of Recreational Marijuana Businesses.*

### *Sec. 4.3. Imposition and rate of tax.*

- 1. There is hereby levied an excise tax of five percent (5%) upon the average market rate of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility located in the Town of Dolores to a retail marijuana Center or retail marijuana products manufacturer.*

### *Sec. 4.4. Vendor liable for tax.*

- 1. Each retail marijuana cultivation facility within the Town of Dolores shall collect the tax imposed by this Article upon every sale or transfer of unprocessed retail marijuana from the*

*cultivation facility. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Article.*

#### *Sec. 4.5. Taxes collected are held in trust.*

- 1. All sums of money paid by any person or facility to a cultivation facility as excise taxes pursuant to this Article are public monies that are the property of the Town of Dolores. The person required to collect and remit municipal retail marijuana excise taxes shall hold such monies in trust for the sole use and benefit of the Town of Dolores until paying them to the Town's Treasurer.*

#### *Sec. 4.6. Licensing and reporting procedures.*

- 1. Every person with the duty to collect the excise tax imposed by this Article shall obtain an excise tax license from the Town Clerk and shall report such taxes collected on forms prescribed by the Town Clerk and remit such taxes to the Town on or before the tenth day of the month for the preceding month or months under the report. An excise tax license shall be valid so long as:
  - a. The business remains in continuous operation, and*
  - b. The license is not cancelled by the licensee or revoked by the Town, and*
  - c. The business holds a valid retail marijuana license pursuant to Article II of this Ordinance.**
- 2. The excise tax license may be cancelled or revoked by the Town as provided in this Article.*
- 3. Whenever a business entity that is required to be licensed under this Article is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new excise tax license.*
- 4. Every person engaged in a retail marijuana cultivation business in the Town of Dolores shall keep books and records according to the standards of the Town Clerk and this Article and subject to the Town Treasurer's right to audit as set forth in this Article.*

#### *Sec. 4.7. Collection of tax.*

- 1. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than one hundred dollars (\$100.00) to make returns and pay taxes at intervals not greater than three (3) months.*
- 2. It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this*

*Article. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk, Town Treasurer or their designees.*

#### *Sec. 4.8. Audit of records.*

- 1. For the purpose of ascertaining the correct amount of the excise tax due and owing to the Town, the Town Treasurer or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.*
- 2. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk, Town Treasurer or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination. Any such subpoena may be enforced by the Dolores Municipal Court.*
- 3. Any person claiming an exemption under the provisions of this Article is subject to audit in the same manner as any other person engaged in the sale or transfer of unprocessed retail marijuana in the Town.*

#### *Sec. 4.9. Tax overpayments and deficiencies.*

- 1. An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the excise tax upon the sale or transfer of unprocessed retail marijuana, she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Article, the difference together with interest shall be paid by the retail marijuana cultivation facility within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.*

#### *Sec. 4.10. Tax information confidential.*

- 1. All specific information gained under the provisions of this Article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Article, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with*

- proper judicial order, or as otherwise provided in this Article or by law, shall be guilty of a violation hereof.*
2. *The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax or excises taxes any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.*
  3. *Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.*

#### *Sec. 4.11. Forms and regulations.*

1. *The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said excise tax on the sale or transfer of unprocessed retail marijuana and in particular and without limiting the general language of this Article, to provide for:*
  - a. *A form of report on the sale or transfer of unprocessed retail marijuana to be supplied to all vendors;*
  - b. *The records which retail marijuana cultivation facilities are to keep concerning the tax imposed by this Article.*

#### *Sec. 4.12. Enforcement and penalties.*

1. *It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Article, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Article. Any person convicted of a violation of this Article shall be deemed guilty of a municipal offense, punishable by a fine of up to three hundred ninety nine dollars (\$399.00) and ninety (90) days imprisonment or by both such fine and imprisonment. Each day, or portion thereof, that any violation of this Article continues shall constitute a separate offense.*
2. *A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the retail marijuana cultivation facility and become due in the event the tax is not remitted by the tenth day of the month as required by this Article, or such other date as prescribed by the Town Clerk, and one and two-half percent (2.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.*
3. *If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the retail marijuana cultivation facility required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.*



4. *If any retail marijuana cultivation facility fails to make a return and pay the tax imposed by this Article, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the retail marijuana cultivation facility at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.*
5. *Such petition shall be in writing and the facts and figures submitted shall be submitted in writing, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Article. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.*

#### *Sec. 4.13. Tax lien.*

1. *The tax imposed by this Article, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any Town Marshal, the Montezuma County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.*
2. *The tax imposed by this Article shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.*

#### *Sec. 4.14. Recovery of unpaid tax.*

1. *The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.*

2. *In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a Controlling Beneficial Owner place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.*
3. *The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.*
4. *Such actions may be actions in attachment, and writs of attachment may be issued to the Montezuma County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town Marshal or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.*
5. *It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence an action for the recovery of taxes due under this Article and this remedy shall be in addition to all other existing remedies, or remedies provided in this Article.*
6. *The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the Montezuma County Treasurer for collection in the same manner as delinquent ad valorem taxes pursuant to Section 31-20-105, C.R.S.*

#### *Sec. 4.15. Status of unpaid tax in bankruptcy and receivership.*

1. *Whenever the business or property of a taxpayer subject to this Article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Article and for which the taxpayer is in any way liable under the terms of this Article shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Article under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Article, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.*

#### *Sec. 4.16. Hearings, subpoenas and witness fees.*

1. *Hearings before the Town Clerk pursuant to provisions in this Article shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this Article may be enforced by the Dolores Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees*

*of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Article, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.*

1. *The Dolores Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.*

#### *Sec. 4.17. Depositions.*

1. *The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.*

#### *Sec. 4.18. Statute of limitation.*

1. *Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Article shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three (3) year period when the notice of lien with respect to which has been filed prior to the expiration of such period.*
2. *In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.*
3. *Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.*

#### *Sec. 4.19. Exemption from revenue limitation.*

1. *In accordance with the approval of the registered electors voting at the April 7, 2020 municipal election, the revenues derived from the tax imposed by this Chapter shall be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.*

## *ARTICLE V Relationship to the Dolores Land Use Code and Special Land Use Requirements*

### *Sec. 5.1 Relationship to the Dolores Land Use Code and Building Code*

1. *The provisions of the Dolores Land Use Code shall apply to any marijuana business licensed under this Code.*
2. *The provisions of any building code adopted by the Town of Dolores shall apply to any marijuana business licensed under this Code.*
3. *Should any provision of this Code impose a stricter requirement on any marijuana business licensed under this Code than is provided for in the Dolores Land Use Code or the Building Code adopted by the Town of Dolores, then the provisions of this Code shall control.*

### *Sec. 5.2. Site specific land use standards*

1. *In addition to any other requirement imposed by this Code, the Dolores Land Use Code and any building code adopted by the Town of Dolores, every marijuana business of any kind shall comply with the land use requirements set for in Appendix A attached hereto and incorporated herein by reference.*
2. *Where a conditional use permit is required for a proposed location under the Dolores Land Use Code or Appendix A, the following specific criteria shall apply.*
  - a. *The proposed use is consistent with Dolores land use plans and policies;*
  - b. *The proposed use complies with all applicable provisions of this Marijuana Code and the LUC;*
  - c. *The proposed use will not have a negative impact on the value of surrounding property or the general neighborhood;*
  - d. *The location and size of the use, the nature and intensity of the operation involved or conducted in connection with is, and the location of the site with respect to streets giving access to it are such that the condition use will not dominate the immediate neighborhood so as to prevent the development and use of neighborhood property in accordance with the applicable zoning district regulations. In determining whether the use will dominate the immediate neighborhood, consideration shall be given to:*
    - i. *The location, nature, and height of buildings, structures, walls, and fences on the site; and*
    - ii. *The nature and extend of the proposed landscaping and buffering on the site.*
  - e. *Whether adequate utility, drainage, and other necessary facilities have or will be provided; and*

- f. *Whether adequate access roads or entrance and exit drives will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion.*

**ARTICLE VI. ALLOCATION OF FEES AND REVENUE**

*Section 6.1. Allocation of fees and tax revenue.*

- 1. *All fees, sales taxes, and excise taxes collected from the sale of marijuana products under this Code shall be distributed to the Town’s general fund to be expended in accordance with the Town’s budget as adopted and amended from time to time.*
- 2. *All occupation taxes collected under Article III of this Code shall be set aside by the Town in an account to be reviewed annually by the Board of Trustees for purposes that may be allocated or expended as determined by the Town Trustees by resolution.*
- 3. *The Town may by resolution modify the purposes for which any tax collected under this Article VI may be spent.*

**SECTION 2.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 3.** This Ordinance shall take effect January 4, 2020 or thirty (30) days after final publication whichever is later.

**SECTION 4.** The temporary moratorium on marijuana businesses imposed by Emergency Ordinance 540 Serries 2019, which was scheduled to expire on December 31, 2020, shall now expire on the effective date of this Ordinance.

Passed, adopted and approved on the first reading this 9<sup>th</sup> day of November, 2020.

DOLORES BOARD OF TRUSTEES:

By: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

**PUBLIC HEARING.** This ordinance shall be considered for second or final reading on the 23<sup>rd</sup> day of November, 2020, in the Town Board Chambers in Town Hall, Dolores, Colorado, at which time and place all persons may appear and be heard concerning the same.

Passed, adopted and approved on the second reading this 23<sup>rd</sup> day of November, 2020.

DOLORES BOARD OF TRUSTEES:

By: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

## APPENDIX A

### Dolores Marijuana Code

#### Contents

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#### A. Permitted Use Table

Marijuana uses are allowed in the following zone districts subject to the requirements of the Dolores Marijuana Code (DMC) and compliance with the requirements of the Dolores Land Use Code. A conditional use permit is required for any proposed marijuana business adjacent to any residential districts or any existing residential use.

	LLR	new	R1	new	MR F	new	MH	CB 1 + 2	CH	LI	new	P	R10	R35	
	LL R1	LL R2	N R1	N R2	N R3	N M U	M HP	D M U	H M U	IN D		P1 P2	R 10	R 35	
<b>Key: /P/ Permitted Use /PL/ Permitted with Use Limitations /C/ Conditional Use /--/ Not Permitted</b>															
<b>Commercial</b>															
Retail Sales															
Marijuana [1]															
Cultivation Operations	--	--	--	--	--	--	--	P/ C [2]	P/ C [2]	--	--	--	--	--	DMC
Recreational/Medical Marijuana Business	--	--	--	--	--	--	--	P/ C [2]	P/ C [2]	--	--	--	--	--	DMC
Testing	--	--	--	--	--	--	--	P/ C [2]	P/ C [2]	P/ C [2]	--	--	--	--	DMC
Infused Product Manufacturing	--	--	--	--	--	--	--	--	--	P/ C [2]	--	--	--	--	DMC
Notes	[1] The uses in this section are defined in Dolores Ord. xxx, Marijuana Code (DMC). [2] Conditional use approval required when the subject property is located adjacent to residential districts or uses.														

## **B. Site and Structure Standards**

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All new construction for all marijuana businesses and any substantial remodel of any existing structure, as defined by the adopted building code, shall comply with the standards in this section.

### **1. Site Design and Layout**

- a. Slopes: Development of sloping properties should generally conform to the natural contours of the land. When it is necessary to build on sloping ground, the use of terraced parking, stepped building pads, and larger setbacks may be required by the Town Engineer.
- b. Utilities: All utilities shall be installed underground within the exterior property lines of the site. Freestanding utility boxes shall be integrated into the landscaping to the maximum extent practicable and screened from view.
- c. Drainage
  - i. All drainage from the property to public rights-of-way shall be by underground structures to avoid drainage across Town sidewalks or drive aprons.
  - ii. On-site storm drainage may be conveyed on the surface.
  - iii. All storm drainage shall be approved in accordance with Town standards. Where appropriate and approved by the Town Engineer, this provision may be waived and alternative drainage methods may be constructed, including the use of a naturalized channel.

### **2. Building Design**

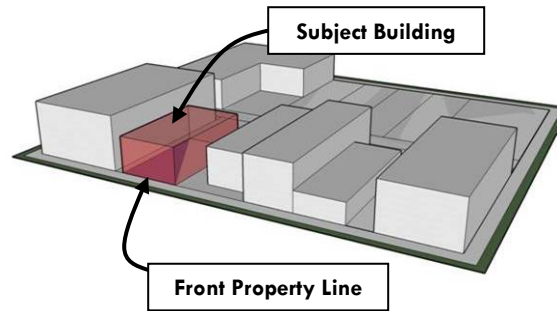
- a. Façades
  - i. The majority of a building's architectural features and treatments shall not be restricted to a single façade. Building details, including roof forms, windows, doors, trim, and siding materials, shall reflect the architectural style of the building. All publicly-visible sides of a commercial building shall display a similar level of quality and architectural detailing.
  - ii. Any wall that faces a street, connecting pedestrian walkway, or residential use, and that exceeds 30 feet in length shall include a minimum of two of the following within each successive 30-foot section or fraction thereof:
    - (a) Change in wall plane, such as projections or recesses, having a depth of at least three percent of the length of the facade and extending at least 20 percent of the length of the façade,
    - (b) Change in texture or masonry pattern,
    - (c) Windows,
    - (d) Covered walkways,
    - (e) Structural canopies, or
    - (f) An equivalent element that subdivides the wall into human scale proportions.



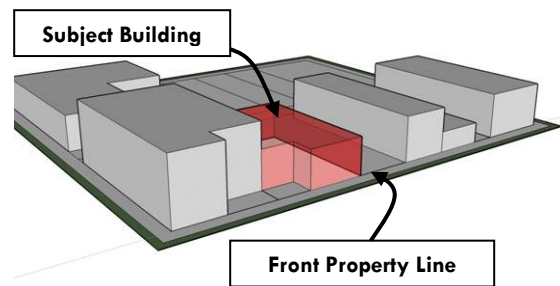
- iii. Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length.
- iv. Rear façades of buildings shall either be screened from view of the public or be landscaped and incorporate architectural facade elements resembling the elements in the front facade.
- b. Building Orientation: The front building façade shall be oriented toward a public street and pedestrian walkways.
- c. Buildings within a single complex or related complexes shall be stylistically consistent. Franchise architecture is discouraged in favor of design that are architecturally compatible with the character of the neighborhood, district, or block.
- d. Roofs shall be designed and constructed as follows:
  - i. Flat roofs shall include parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. Parapet roofs should be of sufficient height to conceal HVAC units and other similar roof-mounted apparatus from public view from adjacent street levels. Parapet roofs shall have cornices or be stepped . The Planning & Zoning Commission may waive or reduce the parapet requirement where solar equipment is roof-mounted or for green roofs.
  - ii. Sloping roofs shall have a vertical rise of not less than 1 foot for every three feet of horizontal run and no more than one foot for every one foot of horizontal run. Sloping roofs shall have three or more roof slope planes where a building exceeds 3,000 square feet. Two or more roof slope planes shall be required for buildings of 3,000 square feet or less.

### 3. Downtown Design

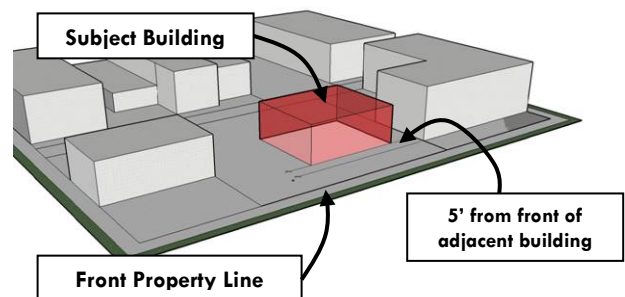
- a. The front setback of each primary structure in the DMU district shall meet one of the following standards, as applicable. If the setback or build-to required by the zone district dimensions, this section shall govern.
  - i. If the entire width of the front façade of either of the adjacent buildings is built to the front property line, then the entire width of the front façade of the proposed building shall also be built to the front property line. (See Figure 1)
  - ii. If part of the width of the front façade of either of the adjacent buildings is built to the front property line, then at least 50% of the width of the front façade of the proposed building shall also be built to the front property line. (See Figure 2.)
  - iii. If no part of the front façade of either of the adjacent buildings is built to the front property line, then the front façade of the proposed building shall be built no more than 5 feet further from the front property line than the front façade of the adjacent building nearest the street. (See Figure 3)
  - iv. When the requirements of subsections i, ii, or iii above are applied to a building on a corner lot, they shall only require comparison with the front façade of the adjacent building facing the same street as the proposed building (not adjacent buildings that face different streets).



**Figure 1:** When the entire width of the front façade of either of the adjacent buildings is built to the front property line, the entire width of the proposed building shall also be built to the front property line.

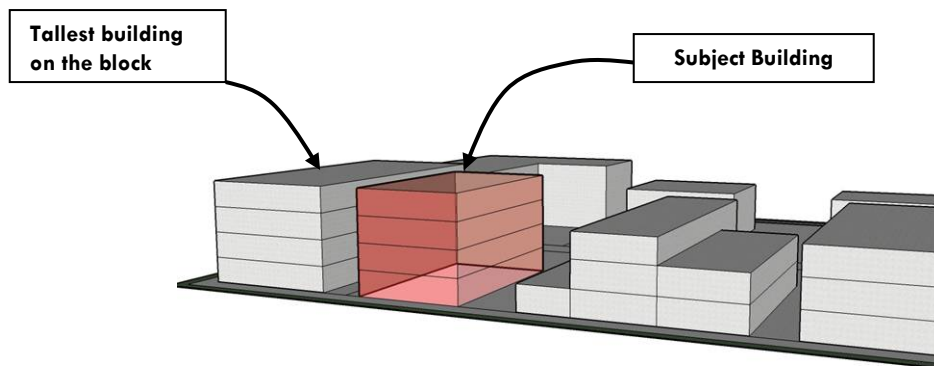


**Figure 2:** If part of the width of the front façade of either of the adjacent buildings is built to the front property line, then at least 50% of the width of the proposed building shall also be built to the front property line.



**Figure 3:** If no part of the front façade of either of the adjacent buildings is built to the property line, then the front façade of the proposed building shall not be further than 5 feet from the front property line than the adjacent building nearest to the street.

- v. If only one of the adjacent lots on the same block face is occupied with a primary structure, the requirements of subsections a, b, c, and d above shall only require comparison with the one adjacent lot that is occupied with a primary structure. If neither of the adjacent lots facing the same block face is occupied with a primary structure, then the requirements of subsections a, b, c, and d above shall require comparison with the nearest building located on the same block face and facing the same street.
- b. Maximum and Minimum Building Heights
- Regardless of the maximum height permitted in the DMU Dimensional Standards Table, no primary or accessory structure shall be taller than:
- i. The tallest building on the block face where the proposed building is located, or
  - ii. 10 feet taller than the tallest building on the block across the street from the front façade of the proposed structure, whichever is less. (See Figure 4.)



**Figure 4:** No primary structure may be taller than the tallest building on the block, or more than 10 feet taller than the tallest building on the block face across the street, whichever is less.

- c. Building Design Standards
- i. Maximum Building Size: No single primary building shall exceed 10,000 square feet of gross floor area.
  - ii. Maximum Building Width: The width of the building façade (as viewed from the street frontage), shall be no more than 35% wider than the width of the widest façade on any other building on the same block face or on the block face immediately across the street.
- d. Facades and Articulation
- Each principal structure shall meet at least two of the three standards in subsections (i) through (iii) below, with the choice of those standards to be at the option of the owner:
- i. Transparency: A minimum of ten percent of each facade area that faces a street must be composed of transparent materials. At least 1/2 of this amount must be

provided so that the lowest edge of the transparent materials is no higher than four feet above the street level.

- ii. Wall Plane Articulation: Each facade greater than 50 feet in length abutting a street, measured horizontally, must incorporate architectural features such as wall plane projections, recesses, or other building material treatments and textures that visually interrupt the wall plane. No uninterrupted length of any facade must exceed 50 horizontal feet.
  - iii. Roof Articulation: Where sloping roofs are used, at least one projecting gable, hip feature, or other break in the horizontal line of the roof ridgeline (as viewed from the street frontage must be incorporated for each 50 lineal feet of roof. Where flat roofs are used, the design or height of the parapet must include at least one change in setback or height of at least three feet along each 50 lineal feet of façade.
- e. Entryway Design and Location: Each principal building must have clearly defined, highly visible main entrances for occupants and/or customers with features designed to emphasize the importance of the entrance, which must include at least one of the following features, with the choice of the features to be at the option of the owner:
- i. A canopy or portico;
  - ii. A roof overhang;
  - iii. A horizontal recess or projection;
  - iv. An arcade or arch;
  - v. Architectural moldings integrated into the building design; or
  - vi. An architectural feature used to emphasize the entryway of another building in the DMU district.
- f. Pedestrian-Oriented Design Features
- i. Each principal structure must be designed so that ground-floor façades that face public streets include arcades, display windows, entry areas, awnings, or similar features designed to attract or protect pedestrians along no less than 60 percent of their horizontal length.
  - ii. In addition, all principal entrances of principal buildings not facing an alley must have direct access (i.e., access without having to cross a public street) to a sidewalk, walkway, path, or pathway that leads to a public street.

## **C. Landscaping, Screening, and Fencing**

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All marijuana businesses shall be subject to the requirements of this Section.

### **1. Street Yard Landscaping**

- a. Street yard landscaping is required along all lot lines adjacent to a public road that is not an alley. The minimum depth of the street yard landscape area shall be 10 feet, measured inward from the property line. Where a sidewalk is installed or required, the depth shall be measured from the inside edge of the sidewalk.
- b. Street yard landscape areas may overlap required zone district yards and be located within required setbacks.
- c. The horizontal plane (ground plane) of street frontage landscape area shall be planted in 75 percent organic materials, excluding turf grass or other material that requires regular mowing. The remaining 25 percent may be covered in inorganic materials. Smooth concrete or asphalt surfaces are not considered landscaping.
- d. One tree, with a minimum two-inch caliper, shall be provided for each 35 linear feet of lot frontage or fraction thereof.
- e. Access driveways shall not be subtracted from calculations of the amount of street yard landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining landscaping area.

### **2. Screening and Fencing**

- a. All properties with marijuana uses shall be fenced along any side or rear property line where parking lot buffering is not required.
- b. Required fencing shall be six-feet tall, opaque, and shall be constructed of commonly used fence materials, including wood, brick, stone, chain-link, and vinyl. The use of railroad ties, wood pallets, tires, or rubble is prohibited. Salvaged material that does not meet one of the commonly used fence materials identified above are generally prohibited except where:
  - i. The appearance of the completed fence is substantially similar to and consistent with the design of a fence constructed of commonly-used materials,
  - ii. The salvaged material fence is constructed according to generally applicable fence construction standards, and
  - iii. The salvaged material is in good repair and capable of long-term maintenance by the property owner.
- c. An existing fence of the proper height and materials that is located on the property line where a screening fence is required may be retained. Where an existing fence is not compliant with this section, the property owner who is required to install the screening fence shall replace the existing fence with a compliant fence.
- d. All parking areas located along a public road that is not an alley shall be designed with street yard landscaping per Section B.1 shall be provided. The street yard area shall be designed as follows:

- i. The buffer area shall include plants, earth berms, walls, fences, trees, or shrubs in any combination designed to provide a visual screen to a minimum height of three feet above the highest finished grade of the parking area. If plants are used to achieve a screen, they shall be selected to reach full maturity in no more than three years. If native, naturalized, or xeriscape plant materials are selected, a fence shall also be provided.
- ii. A semi-opaque fence maybe used within the street yard landscape area to provide a screen. A screening fence may be constructed of any of the materials listed above, as well as wire and ornamental iron work. The street yard landscape area will still be planted per Section B.1.

## **D. Parking**

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All marijuana businesses shall be subject to the requirements of this section.

### **1. Required Off-Street Parking**

- a. Off-street parking shall be provided for all marijuana uses, regardless of zone district where located, as follows:
  - i. 1 space per 250 square feet GFA.
  - ii. Accessible parking standards apply.
- b. All off-street and accessible parking shall be provided on-site to the maximum extent feasible. Off-site and shared parking are prohibited.

### **2. Parking Lot Landscaping**

The following requirements shall be applicable to all new off-street surface parking lots with 10 or more spaces.

- a. All surface parking lots shall incorporate the following interior landscaping:
  - i. All parking stalls shall be within 132 lineal feet of a required parking lot landscape area. For purposes of determining tree spacing, parking spaces may be counted in any rational sequence.
  - ii. Landscape terminal islands that are a minimum of nine feet wide shall be provided at the ends of each parking row.
  - iii. Parking lots with 50 or more spaces shall also be divided into subsections of no more than 25 spaces with landscape divider strips shall be placed between the sections.
- b. Landscape Area Design
  - i. Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of concrete curbs, extruded asphalt or other approved permanent barriers.
  - ii. No paving shall be permitted within four feet of the center of a tree.
  - iii. All of the required parking lot landscaped areas must contain, on the horizontal plane (ground plane), a minimum of 75 percent organic landscaping material, with

a maximum of 25 percent inorganic landscaping material. Approved sidewalks are not counted toward the percentage of inorganic material unless specifically provided for in this section.

- iv. A landscape divider strip shall be planted with one tree every forty feet.
- v. Islands shall be planted with one tree and at least 75 percent of the ground plane shall be covered with organic material that will remain in place on the island through typical local weather. Turf grass is prohibited in or on parking lot landscape islands. Deciduous canopy trees are encouraged within the parking lot.
- vi. Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material, replenishment of groundwater supplies and to reduce problems associated with runoff.
- vii. Parking lots shall be designed so as not to drain into or across public sidewalks, adjacent property, or directly into natural watercourses. Curbs used to protect landscape islands should have 18 to 24-inch-wide curb cuts at frequent intervals to allow storm water infiltration. The surface of landscape islands and divider strips shall be concave to help channel surface water runoff. The following drainage structures are permitted within parking lot landscape areas:
  - (a) Rain gardens,
  - (b) Bio-swales,
  - (c) Drainage easements, and
  - (d) Drainage inlets.

#### **E. Clear Vision Areas**

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All marijuana businesses shall be subject to the requirements of this Section.

1. Clear vision areas for roads and access drive must be maintained as required by the current Land Use Code.
2. Plant materials within these clear vision areas must be trimmed down to no more than 30 inches above grade, or in the case of trees, the lowest branch height trimmed up to 8 feet above grade.

## F. Outdoor Lighting

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The following standards shall apply to all outdoor lighting associated with any marijuana business..

### 1. Applicability

All outdoor light fixtures installed prior to the effective date of this ordinance shall be brought into compliance with this section.

### 2. Definitions

- a. Attached Lighting: A light fixture that is attached to a building or structure. Any light fixture that is directly or indirectly attached to a structure with a diameter and/or width of more than 12 inches is considered attached lighting.
- b. Fixture: A complete lighting unit including the lamp and parts designed to distribute the light, position and protect the lamp, and connect the lamp to a power source. Also referred to as a luminaire. The fixture may include an assembly housing, a mounting bracket or polo socket, lamp holder, ballast, a reflector or mirror, and a refractor or lens.
- c. Floodlight: An outdoor lighting fixture intended to illuminate a large area. Often utilized to broadcast light over a substantial area for security and recreational purposes.
- d. Freestanding Lighting: A light fixture that is not attached to a building or structure. Any light fixture attached to a structure with a diameter and/or width of 12 inches or less (such as a pole) is considered freestanding lighting.
- e. Fully Shielded: An outdoor lighting fixture that is shielded with a non translucent barrier or constructed in such a manner that the light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane passing through the lowest point of the fixture where light is emitted. Light rays emitted by a fully-shielded fixture shall not cast direct light onto any adjacent property other than a common solid fence.
- f. Light Pollution: Any adverse effect of artificial light sources including, but not limited to, discomfort to the eye or diminished vision due to glare, uncontrolled uplighting, uncomfortable distraction to the eye, or any artificial light that substantially diminishes the view of the night sky.
- g. Outdoor Lighting Fixture: Any lighting fixture that is installed, located, or used in such a manner to provide illumination of objects or activities outside. Outdoor lighting fixtures include all fixtures mounted to the exterior of a structure, poles, or other freestanding structures, or placed so as to provide direct illumination on any exterior area or activity.
- h. Partially Shielded Fixture: A fixture employing a top shield to eliminate all direct upward light, but otherwise does not shield the lamp from view. May allow some light to pass through a semi-translucent barrier, and/or may allow visibility of the lamp/bulb from certain perspectives.
- i. Seasonal Lighting: Seasonal displays of 45 days or less within one calendar year.
- j. Temporary lighting: means lighting that is intended to be used for a special event for 12 days or less per calendar year.



- k. Uplight: Light emitted from a fixture into the hemisphere at or above the horizontal plane.

**3. Fixture Type**

- a. All freestanding outdoor light fixtures shall be shielded with full cutoff fixtures and directed downward to prevent off-site glare.
- b. Fixtures illuminating parking and pedestrian areas, both freestanding and building mounted, shall have full cutoff fixtures as identified in Figure 5, Cutoff Fixture Types.

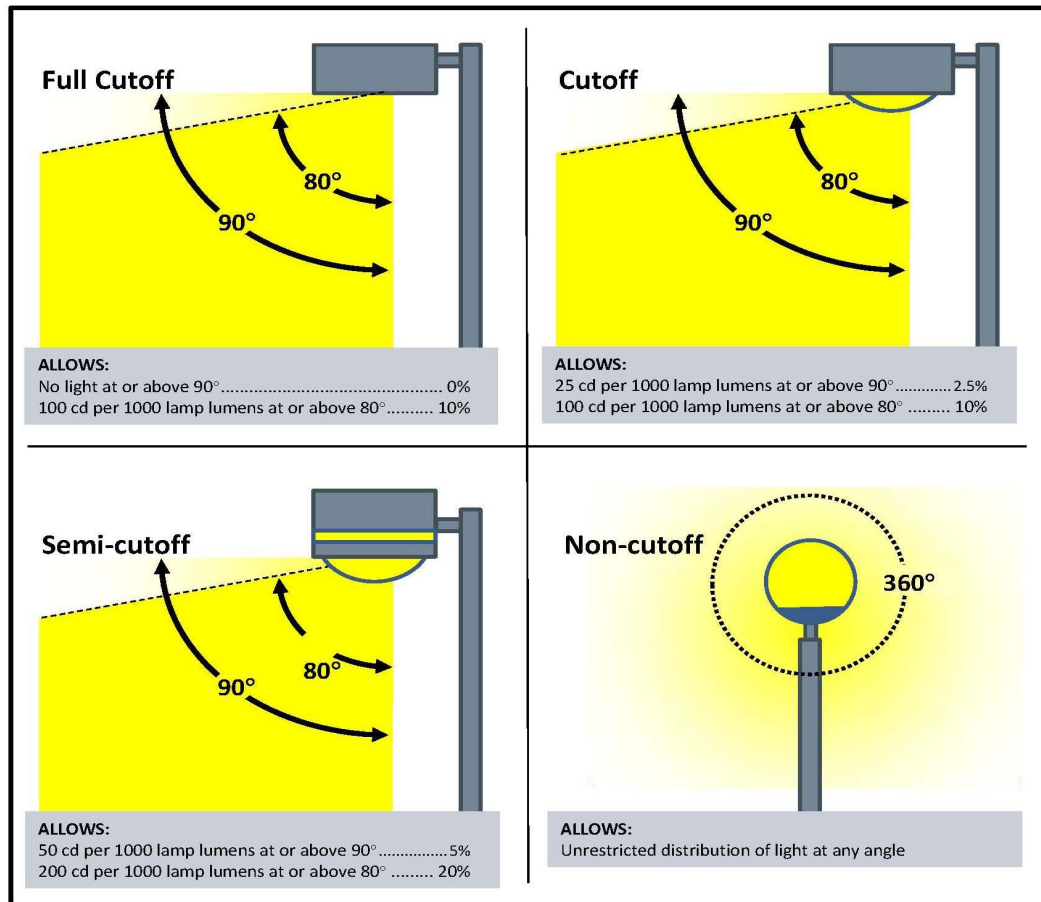


Fig. 5: Cutoff fixture types

- c. Building-mounted lighting shall be shielded and directed at a downward angle no higher than 45 degrees above the nadir (half-way between straight down and straight to the side) measured perpendicular from the pole or mounting wall. See Figure 6.

- d. Architectural, display, and decorative lighting visible off-site shall only be generated from a concealed or cutoff light source with low-level fixtures. Lamps used for this type of accent lighting shall be low intensity to produce a subtle lighting

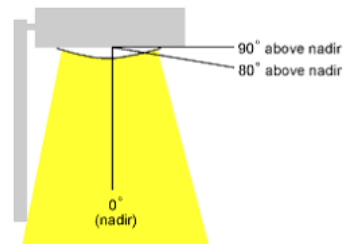


Fig. 6: Measurement of Nadir

effect and shall utilize less than 100 watts and shall emit less than 1,600 lumens per fixture.

- e. Outdoor light fixtures under awnings, canopies, buildings, overhangs, or roof eaves shall be shielded to light pedestrian areas and walks and not illuminate the overhang, eave, or awning. Lighting fixtures shall not extend below the ceiling of freestanding canopies.

#### **4. Measurement at Property Line**

Outdoor lighting shall not cause light trespass exceeding the following amounts, measured with a light meter oriented vertically or horizontally at the property line of the property on which the light is trespassing:

- a. The maximum allowable trespass onto a residential use or property is 0.1 foot-candles.
- b. The maximum allowable trespass onto a non-residential use or property 0.25 foot-candles.

#### **5. Outdoor Lighting Design Standards**

- a. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), LED, solid state lighting, or high-pressure sodium, with a Color Rendering Index (CRI) above 70.
- b. All luminaires shall have a low Correlated Color Temperature (CCT) in the warm light spectrum (red, orange, and yellow range) of 2200-3000 Kelvins.
- c. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.
- d. Uplighting is prohibited except when used for a display of the United States or State of Colorado flags.
- e. Lighting installations shall not have an adverse impact on ground or air traffic safety.
- f. The maximum height of any lighting pole shall not exceed the maximum height of a structure as allowed by the zoning district.
- g. All outdoor lighting shall be installed with an on/off switch.

#### **6. Automated Control Systems**

- a. All outdoor lighting except security lighting shall be extinguished by 11:00 p.m. or close of business, whichever is later, except for security lighting activated by motion sensor which extinguishes 10 minutes after activation and lighting at the building entrances and driveway egress points.
- b. Automated control systems, such as motion sensors and timers, shall be used to meet the curfew requirements. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available. Automated controls should be fully programmable and supported by battery or similar backup.

#### **7. Deviations**

Deviations from the lighting standards provided in this section may be approved by the Planning & Zoning Commission when the applicant can prove:

- a. There are unique circumstances affecting the subject property that make it infeasible or impractical to comply with strict application of the lighting standards detailed in this section.
- b. The proposed deviation will achieve the purpose and intent of this section.
- c. The levels of light pollution will not exceed the level anticipated to be produced by a project compliant with this section.
- d. The proposed project will not be contrary to or in conflict with the Comprehensive Plan.

**8. Exemptions**

Lighting required by building codes or other regulations is exempt from this section, including: communication towers, exit signs, lighting for stairs/ramps, lighting for points of ingress/egress to buildings, and all other illumination required by air navigation safety provisions, building codes, OSHA standards, and other permitting requirements from state or federal agencies.