TOWN OF WELLINGTON MARIJUANA LICENSING AUTHORITY RULES AND REGULATIONS

- Rule 1. Authority, purpose, applicability
- Rule 2. Definitions
- Rule 3. Local authority
- Rule 4. Licenses and applications
- Rule 5. General license provisions
- Rule 6. Non-renewal, suspension, revocation of license
- Rule 7. Medical marijuana store license; retail marijuana store license
- Rule 8. Amendments

Rule 1. Authority, Purpose and Applicability

Rule 1.1 Purpose and intent.

As permitted by state medical marijuana and retail marijuana codes (C.R.S. Title 44, Article 10), the voters of the Town of Wellington enacted the "Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington" ("the ordinance") to allow retail marijuana stores and medical marijuana stores in the town on the condition that the establishments are operated in compliance with applicable state and local laws. The ordinance created the local licensing authority and vested it with authority to promulgate regulations as necessary for proper administration and enforcement.

The purpose of these regulations is to establish specific standards and procedures for local licensing of retail marijuana stores and medical marijuana stores and to protect the health, safety and welfare of the residents and consumers of the Town of Wellington ("the town") by prescribing the manner in which these establishments can be licensed and conducted in the town. Marijuana establishments are a heavily regulated industry in the state and town. The town has a zero-tolerance policy for violations of this ordinance, or these rules and regulations.

By enacting these regulations, the town does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, which constitutes a violation of state or federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Rule 1.2 Relationship to other laws.

Pursuant to Wellington Municipal Code 2-14-20, the licensing authority incorporates the requirements and procedures set forth in the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended. The provisions in these regulations that are different from applicable state law are consistent with the town's responsibility to protect the public health, safety and welfare as authorized by applicable law. Where these regulations conflict with state regulations, the more restrictive provision shall control. To the extent that the regulations conflict with any town Municipal Code provisions regulating marijuana, the Town's Municipal Code provisions will govern. Nothing in these regulations shall be construed to condone, promote, facilitate or otherwise to permit the sale, possession or use of marijuana in violation of any applicable law.

Rule 2. Definitions

Rule 2.1 Definitions

The definitions contained in Sec. 2-14-30 of the Wellington Municipal Code ("WMC") and CRS 44-10-103, as amended, shall apply equally to these regulations except where specifically defined below.

"Good cause" for purposes of refusing or denying license renewal, reinstatement or license issuance, includes:

- a. The licensee or applicant has violated, does not meet, or has failed to comply with any provision of the Wellington Municipal Code, these rules and regulations, or any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended;
- b. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority.
- c. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good cause" for purposes of extension, continuance or other such procedural matters means unforeseen or emergency circumstances resulting in extreme and undue hardship that in the licensing authority's determination necessitates a deviation from the time restrictions contained herein, except those time restrictions imposed by state law or local ordinance.

"Local authority" means the Wellington Board of Trustees, or a separate local marijuana licensing authority appointed by the Board of Trustees.

"Posted on the property" for purposes of any required notices means on the proposed or licensed premises in a conspicuous location accessible to and in a place easily viewed by the public.

"Resident" for purpose of determining the neighborhood needs and desires means an owner or manager of a business, excluding a landlord, sublandlord or property owner of the proposed premises and the applicant, located within the neighborhood boundaries set by the city clerk.

"Secretary" means the town clerk of the Town of Wellington or designee.

Rule 3. Local Authority

Rule 3.1 Creation and purpose

Wellington Municipal Code Sec. 2-14-20 establishes the local licensing authority for the purpose of regulating and controlling the licensing and sale of marijuana in the town pursuant to the local licensing provisions and Colorado Marijuana Code, Title 44, Article 10, CRS, as amended. The local licensing authority shall have the final authority of review and approval on all such matters.

Rule 3.2 Powers

The licensing authority shall have all the powers and authority granted to the local marijuana licensing authority by the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, as well as those explicitly granted or reasonably inferred by the WMC. The licensing authority's powers shall include, but shall not be limited to, the authority to create its own procedural rules, administer oaths, and to issue subpoenas to require the presence of persons or the production of documents, books and records necessary to the determination of any hearing.

Rule 3.3 Duties

The licensing authority, along with the state licensing authority, shall enforce compliance with the requirements established in these regulations, local ordinances and the applicable provisions of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended.

Rule 3.4 Administrative penalties and remedies.

Any applicant or licensee who violates these regulations, any conditions of license issuance, any municipal code provisions related to marijuana establishments or any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, and regulations, as applicable, shall be subject to such administrative penalties as the licensing authority deems appropriate, including without limitation license suspension, revocation or denial and the imposition of a fine, as set forth at Sec. 2-14-120 of the municipal code. A conviction shall be grounds for, but shall not be required prior to, the licensing authority taking action against a license.

Rule 4 Licenses and Applications

Rule 4.1 Licensure required

It shall be unlawful for any person to operate a retail marijuana store or medical marijuana store in the town without first obtaining a local license. A valid marijuana license from the State of Colorado is also required. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana. Upon denial or revocation of a state license, any license issued under these regulations shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates federal law, all licenses issued under these regulations shall by deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Rule 4.2 General application requirements

All applicants and licensees shall follow the procedures set forth in Chapter 2, Article 14 of the municipal code and the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, pertaining to license applications. All applicants shall submit to the secretary a local license application, including background investigation of any associated key person and other application or renewal forms submitted to the State.

Rule 4.3 Fees

All fees must be paid at the time an application is submitted. An application will not be acted on until all fees have been paid in full. No license shall issue unless all fees are paid. All application fees are nonrefundable. A permit or license fee may be refunded only if the license or permit is denied, at the discretion of the licensing authority for good cause shown. No portion of the license or permit fee shall be refunded if the license or permit is suspended, revoked, surrendered or the business is otherwise terminated.

Rule 4.4 Restrictions for applications

Pursuant to WMC 2-14-70, no application shall be received or acted upon by the Authority until the Town establishes whether the proposed application meets the established distance restrictions set forth at WMC 2-14-70.A.2., and that the applicant has fully complied with all town zoning ordinances.

Rule 4.5 Preliminary findings

Upon receipt of a complete application (to include full payment of all required fees) and after investigation, the town attorney or designee will make preliminary findings in writing regarding the application and shall send such findings to the applicant not less than five days prior to the date of any scheduled public hearing. The findings shall encompass the following matters, by way of illustration and not limitation:

- a. Whether the applicant is or will be entitled to possession of the premises for which the application is made;
- b. Whether the retail marijuana store or medical marijuana store as contemplated by the application at the premises sought to be licensed is in full

compliance with land development, fire, building or other applicable town ordinances, regulations, or rules of the town or any other applicable laws, regulations or rules of the State;

- c. The number and type of marijuana businesses located in or near the neighborhood; and
 - d. The results of the background investigation concerning the Applicant.

Rule 4.6 Consideration of applications

a. New license applications. Upon receipt of a complete application for a new license (and payment in full of all required fees), the licensing authority shall review the application and all supporting documents to determine whether the application shall be granted or denied.

An incomplete application will be returned to the applicant with written instructions on the missing items to be included in the application. Pursuant to Wellington Municipal Code 2-14-50.A., the applicant shall be given seven days to remedy and supplement the application to conform with the local and state provisions, and these rules and regulations. Failure to submit a complete application in that time frame may result in denial of the application. WMC 2-14-50.A.

Before entering a decision, approving or denying the application, the local licensing authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which the application has been made, including the number, type, and availability of medical marijuana stores and retail marijuana stores located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant to conduct the type of business proposed. CRS 44-10-304.

In the event the licensing authority determines that additional evidence is necessary, a public hearing may be scheduled, pursuant to C.R.S. 44-10-303, as amended. The hearing shall be held not less than thirty days after the date the completed application is filed. Notice of the hearing shall be posted in a conspicuous place on the premises and published on the town's website no less than ten days prior to the hearing. Posting requirements set forth at C.R.S. 44-10-303(1)(b), (c), (d), as amended, are adopted. The hearing shall be open to the public, though comment and testimony of members of those in attendance will not be taken. The public hearing shall be recorded by electronic or other means.

The applicant bears the burden of proving that all qualifications for licensure have been satisfied, the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law.

Within thirty days after the public hearing or completion of the application investigation, the licensing authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and state the reasons for the decision. A copy of the decision shall be provided to the applicant via first class mail to the address of applicant as provided on the application, or via electronic mail, to the e-mail address of applicant as provided on the application.

In the event the application for license is granted, the licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy after the issuance of a Certificate of Occupancy, and with such items as furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of Title 44, Article 10, C.R.S., as amended, and then only after the licensing authority or designee has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

Rule 4.7 Good moral character

The licensing authority shall make a finding and determination as to the moral character of the applicant. A determination that the applicant is not of good moral character constitutes sufficient grounds for denial of the application, regardless of other qualifications. Good moral character means an individual who has a personal history demonstrating honesty, fairness and respect of the rights of others, and conformance to the law. It also includes the propensities of the applicant toward criminal conduct, in addition to any criminal record. In evaluating the moral character of an applicant, or manager, the licensing authority may consider the following factors:

- a. The criminal history of the person, including the facts set forth at C.R.S. 25-5-101(2), as amended;
- b. Denial, suspension, revocation or other disciplinary action of business and professional licenses currently or previously held by the applicant and the applicant's officers, owners, executives, and managers;

- c. The types and dates of criminal or licensure violations, including whether the violations related to moral turpitude, substance abuse or public safety;
- d. Evidence regarding abuse of intoxicating or controlled substances by the applicant and the applicant's officers, owners, executives, and managers;
 - e. Evidence of rehabilitation, if any, submitted by the applicant; and
- f. Any additional information that may otherwise directly impact the applicant's ability to operate a marijuana establishment in conformity with applicable laws and regulations.

Rule 4.8 Prohibited licensees

Persons prohibited as licensees, as set forth at C.R.S. 44-10-307, as amended, is hereby adopted. In addition, no person who has been convicted of the offense of operating a marijuana business without the necessary state and local license in the preceding five years from the date of application shall be granted a local marijuana license.

Pursuant to CRS 44-10-307(1)(h), a license shall not be issued or held by a person who employs another person at a medical marijuana business or retail marijuana business who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals the person is ineligible.

Rule 4.9 Denial of application

The licensing authority shall deny any application that does not comply with Chapter 2, Article 14, WMC, or does not meet the requirements of Title 44, Article 10, C.R.S., as amended, or state and local rules and regulations. Where there is "good cause" for denial, as defined herein, the licensing authority may deny an application for licensure.

Upon denial of an application, the applicant may petition the licensing authority to reconsider the denial. WMC 2-14-50.D. The written petition for reconsideration shall be filed with the licensing authority within ten days of the date of the written order denying the application, and shall state the reasons the denial of the application was in error. Timey filing of a petition for reconsideration is jurisdictional. A late filing will not be accepted, and the denial of the license application shall be final. Hearing on the petition shall be scheduled, not less than thirty days from the date the petition to reconsider was filed.

At the hearing, the applicant bears the burden of establishing by a preponderance of the evidence that the denial of the application for the marijuana was an abuse of discretion by the licensing authority.

Appeal of the final decision of the licensing authority shall in the form of a Rule 106, C.R.C.P appeal to the Larimer District Court.

Rule 4.10 Renewal applications.

Renewal applications may be administratively approved by the secretary if the licensee has met all conditions of the license, has had no compliance issues during the preceding year, has no history of violations in the prior year, and there are no allegations against the licensee that would constitute good cause to deny the application. If a renewal application is not eligible for administrative approval, the licensing authority shall set the matter for hearing. Notice of the hearing shall be provided to the applicant and be posted on the premises at least ten days prior to the hearing. Upon request of the applicant, the licensing authority may continue the hearing for good cause. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

If a licensee submits a timely and sufficient renewal application, the licensee may continue to operate until the application is finally acted upon by the licensing authority. CRS 44-10-3014(1).

Rule 4.11 Transfer of ownership

Upon receipt of an application for transfer of ownership, the licensing authority, in its sole discretion, may hold a public hearing on the application. If a hearing is scheduled, notice of the hearing shall be posted at the premises for a period of at least ten days prior to the hearing. The Secretary shall provide notice of the hearing to the applicant at least ten days prior to the hearing.

The applicant has the burden to prove that all of the qualifications of licensure have been satisfied, that the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of the municipal code, the Colorado Marijuana Code, CRS Title 44, Article 10, as amended, and these rules and regulations.

After appropriate background investigation by the licensing authority (including criminal history check), the licensing authority shall consider the

provisions of C.R.S. 44-10-307, as amended, "Persons prohibited as licensees," in addition to other relevant provisions of relevant state and local law.

The licensing authority shall issue a written order granting or denying the application, discussing the grounds for the decision. A copy of the order shall be provided to the applicant via first class mail to the address on the transfer application, or via electronic mail to the e-mail address on the transfer application.

Rule 4.12 General hearing rules and procedures

- a. All hearings shall be electronically recorded, or recorded via means to ensure an accurate record of the proceedings is recorded in the event of an appeal. Any person who testifies will be placed under oath.
- b. All documents or exhibits that a party to a hearing intends to submit for consideration of the licensing authority must be marked, with a copy to the Secretary and opposing party at least five days before the hearing date, unless ordered otherwise by the licensing authority.
- c. The licensing authority will admit exhibits and testimony if it is determined that the information is of probative value as determined by the licensing authority. The Colorado Rules of Evidence do not apply to the administrative hearings, though may be a guide for the licensing authority. The licensing authority may, in its sole discretion, limit the presentation of evidence and cross examination to prevent the admission of repetitive, cumulative, incompetent or irrelevant evidence. The licensing authority may ask questions of witnesses.
- d. Only parties in interest may present evidence and testimony at hearings. "Parties in interest" include the applicant (including all owners of more than 10% interest of the corporation of LLC applicant), counsel for the applicant, the town attorney or designee attorney representing the interest of the town, and any person deemed of interest at the discretion the licensing authority.
- e. The town will, upon written request, provide a qualified language interpreter in person or via telephone during the hearing if either the applicant or a witness has limited English proficiency.
- f. At the close of the evidence and arguments, the licensing authority may either make the determination immediately or after taking the matter under

advisement. A written decision shall be issued with any application for a new license, as provided herein.

Rule 5. General License Provisions

Rule 5.1 Licensee to manage licensed premises

Pursuant to C.R.S. 44-10-313(12), as amended, each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities prior to the change.

A medical marijuana business or retail marijuana business that is not a publicly traded corporation shall notify the licensing authority in writing of the name, address, and date of birth of a controlling beneficial owner, passive beneficial owner, or manager before the new controlling beneficial owner, passive beneficial owner, or manager begins managing or associating with the operation. Any controlling beneficial owner, passive beneficial owner, manager or employee must pass a fingerprint-based criminal history check as required by the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation. C.R.S. 44-10-313(4).

Rule 5.2 Exercising privilege under license

Each license issued under Title 44, Article 10, C.R.S., as amended, and the Wellington Municipal Code, is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license is required for each specific business or business entity and each geographical location. Violation of this section may result in the suspension or revocation of the license pursuant to the provisions herein.

Rule 5.3 Possession of premises

At all times, a licensee shall possess and maintain possession of the premises for which the license is issued by ownership, lease, rental or other arrangement for possession of the premises.

Rule 6. Non-renewal, suspension or revocation of license

Rule 6.1 Initiation of hearing process

In addition to any other sanctions prescribed by Tile 44, Article 10, C.R.S., as amended, or rules promulgated pursuant to Title 44, Article 10, C.R.S, as amended, or these rules and regulations, the licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the licensing authority for a violation by the licensee or by any of the agent, manager or employee of the licensee of any provision of state or local law, including state and local rules and regulations, or of any the terms, conditions or provisions of the license issued by the licensing authority.

The licensing authority, on its own motion, may issue an Order to Show Cause and Notice of Hearing. Or, the town attorney, or designee attorney, may file a written request for show cause hearing, supported by an affidavit attesting to the specific facts establishing probable cause to believe that the licensee, agent, manager or employee violated state or local law related to the licensing and/or operation of a medical or retail marijuana store. If the licensing authority finds there is probable cause to believe that the licensee, agent, manager or employee of licensee violated any provision of applicable state or local law related to marijuana establishments, including any violation of state or local rules and regulations, the licensing authority may issue a Show Cause Order and Notice of Hearing.

Any Order to Show Cause and Notice of Hearing shall be personally served on the licensee via hand-delivery, via first class mail to the address as listed on the most recent application filed with the licensing authority, or via electronic mail to the e-mail address as listed on the most recent application filed with the licensing authority.

Rule 6.2 Hearing, burden of proof

At the show cause hearing the town attorney, or designee attorney, shall prove by a preponderance of the evidence that the licensee, agent, manager or employee violated any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, any provision of the Wellington Municipal Code related to marijuana licensing, or any provision of state or local rules and regulations, related to the licensing and/or operation of a medical or retail marijuana store, or failed to comply with any the terms, conditions or provisions of the license issued by the licensing authority.

The licensee shall have the opportunity to cross examine any witness called to testify in favor of the town, present witnesses on its own behalf and make legal argument.

All provisions of Rule 4.12 herein related to the conduct of hearings shall apply to any show cause hearing.

The licensing authority shall issue written findings addressing all alleged violations by the licensee. In the event the licensing authority finds that a violation or violations of law did occur, penalty shall be imposed. A copy of the findings and order shall be served on the licensee personally, by hand delivery, via first class mail or electronic mail as provided herein.

Rule 6.3 Suspension, Revocation

Upon finding a violation of law by the licensee, agent, manager or employee, the licensing authority may revoke the marijuana license or suspend the marijuana license for a period not to exceed six months.

Upon finding the licensee failed to comply with any terms, conditions or provisions of the license, the licensing authority may revoke the marijuana license or suspend the license for a period not to exceed six months.

At the discretion of the licensing authority, pursuant to WMC 2-14-120, all or part of the days of suspension may be held in abeyance on conditions specifically set by the licensing authority. Also, at the discretion of the licensing authority, pursuant to WMC 2-14-120, the authority may allow the licensee to pay a fine in lieu of all or part of any suspension.

Rule 6.4 Summary suspension

Nothing in this section prevents a summary suspension of a license when the licensing authority has objective and reasonable grounds to believe and finds, upon a full investigation, that the licensee has been guilty of deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action. The licensing authority may summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this section, "full investigation" means a reasonable ascertainment of the underlying facts on which the agency action is based. C.R.S. 24-4-401(4)(a).

Rule 6.5 Fine in lieu

Pursuant to WMC 2-14-120(C), the licensing authority may, in its sole discretion allow the licensee to pay a fine in lieu of serving all or part of the suspension. When the decision of the licensing authority suspending a license for fourteen days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon receipt of the petition, the licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it deems desirable and may, in its sole discretion, grant the petition upon making specific findings as set forth at WMC 2-14-120.C.

Rule 7 Medical marijuana store license; retail marijuana store license

Rule 7.1 Medical marijuana store license

A licensee holding a medical marijuana license issued by the licensing authority shall fully comply with all provisions of CRS 44-10-501, as amended, "medical marijuana store license," and all state and local provisions related to the operation of said business.

Rule 7.2 Retail marijuana store license

A licensee holding a retail marijuana license issued by the licensing authority shall fully comply with all provisions of CRS 44-10-601, as amended, "retail marijuana store license," and all state and local provisions related to the operation of said business.

Rule 8 Amendments

Krystal Euker, Town Clerk

These rules and regulati	ions may	be amended	from time	to time by	the
licensing authority.	de	1			
Adopted and effective thi	s day of _	Sune	,	2022.	
				RIJUANA	
		LICENSI	NG AUTH	ORITY	
		By Mig	ty lit	nows	
		Kristin N.	Brown		
	MILLER	VELLINGING			
ATTEST	A. C.	· · · · · · · · · ·			
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