

# **LARIMER COUNTY RESOLUTION FOR LICENSURE OF RETAIL MARIJUANA ESTABLISHMENTS**

## **I. Title**

This Resolution shall be known and may be cited as the “Larimer County Resolution for Licensure of Retail Marijuana Establishments.”

## **II. Authority**

This Resolution is authorized by:

Colorado Constitution Article XVIII, Section 16, commonly referred to as “Amendment 64.”

Colorado Revised Statutes 44-10-101 et seq. and other applicable statutory and regulatory authority.

## **III. Intent and Purpose**

**A.** The intent and purpose of this Resolution is to regulate and control the licensing of Retail Marijuana Establishments and to regulate and control the cultivation, testing, sale, use in manufacturing and distribution of Retail Marijuana by these establishments in unincorporated Larimer County in order to promote the efficient use of law enforcement resources, minimize the market for unlawful marijuana, and enhance revenue.

**B.** This Resolution shall be deemed an exercise of the police powers of Larimer County as a political subdivision of the State for the protection of the economic and social welfare and the health, peace and morals of the people of Larimer County.

## **IV. Applicability**

This Resolution applies in unincorporated Larimer County, including all Growth Management Areas and the Estes Valley.

## **V. Definitions**

“Board”: The Board of County Commissioners of Larimer County, Colorado.

“Criminal Justice Agency”: Any federal, state or municipal court or any governmental agency or subunit of such agency that performs the administration of 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.

“License”: A license to operate a Retail Marijuana Store a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility License or a Retail Marijuana Testing Facility License pursuant to this Resolution.

“Licensed Premises”: The premises specified in an application for a License under this Resolution, which are owned or in possession of the Licensee and within which the Licensee is authorized to operate a Retail Marijuana ~~Store~~ Establishment in accordance with this Resolution.

“Licensee”: A Person designated as a holder of a License issued pursuant to this Resolution.

“Person”: A natural person, partnership, association, company, corporation, limited liability company, or organization; except that “Person” does not include any governmental organization.

“Premises”: A distinctly identified and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

“Retail Marijuana”: Marijuana or Marihuana as defined in Section 16 (2)(f) of Article XVIII of the Colorado Constitution that is cultivated, manufactured, distributed, or sold by a Licensed Retail Marijuana Establishment.

“Retail Marijuana Cultivation Facility”: A person licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Retail Marijuana Establishment”: A Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Manufacturer, or Retail Marijuana Testing Facility

“Retail Marijuana Product Manufacturing Facility”: A person 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 stores, but not to consumers.

“Retail Marijuana Store”: A Person licensed to purchase marijuana from marijuana cultivation facilities and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

“Retail Marijuana Testing Facility”: An entity licensed to analyze and certify the safety and potency of marijuana. Marijuana Testing Facilities includes only fixed structures/buildings and does not include mobile facilities that move from place to place.

“Secondary Retail Marijuana Cultivation Facility”: A second licensed premise where the holder of a Retail Marijuana Cultivation License is authorized to cultivate retail marijuana.

“Unreasonably Impracticable”: Measures to comply with this Resolution require such a high investment or risk, money, time or any other resource or asset that the operation of the Marijuana Retail Establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

Any words or terms used but not otherwise defined in this Resolution shall have the meaning set forth in Amendment 64 and the Colorado Retail Marijuana Code.

## **VI. License**

### **A. License Required**

1. No Person shall operate a Retail Marijuana Establishment without first having obtained a Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility or Retail Marijuana Testing Facility, as applicable (“License”). Each License shall be for a specifically named Person or Persons for one Premises.

2. No License shall be effective until January 1, 2014.

3. The License issued pursuant to this Resolution shall specify the date of issuance, the period for which it is valid, the name of the Licensee, the premises licensed, and the product that may be sold. The License shall be conspicuously placed at all times on the Licensed Premises.

### **B. Classes of Licenses**

The Board is authorized to issue the following classes of licenses for the purpose of regulating the cultivation, testing, manufacture, distribution, and sale of Retail Marijuana:

1. Retail Marijuana Store License
2. Retail Marijuana Cultivation Facility License
3. Retail Marijuana Products Manufacturing Facility License
4. Retail Marijuana Testing Facility License

### **C. Term of License**

A License issued under this Resolution shall be valid for one year from the date of issuance unless earlier revoked or suspended.

## **VII. Administration**

**A.** The Board of County Commissioners is the designated Local Licensing Authority for purposes of this Resolution.

**B.** This Resolution shall be implemented and administered by the Larimer County Retail Marijuana Administrator (“Administrator”) and/or his/her designee(s). The Board shall appoint an officer or employee of Larimer County to serve as the Administrator.

### **VIII. Standards**

**A.** All Applicants and Licensees must meet the following Standards:

**1.** An Applicant or Licensee must hold a current valid State License for the Retail Marijuana Establishment.

**2.** An Applicant or Licensee must own the Licensed Premises or have a valid lease, rental, agreement, or other arrangement for possession of the Licensed Premises for the effective period of the License.

**3.** The Retail Marijuana Establishment must be located 1,000 or more feet from any existing public or private school, licensed child care home or child care center.

**4.** The Retail Marijuana Establishment must be located 500 or more feet from any existing: principal campus of a college, university or seminary; residence; church or religious institution; drug or alcohol rehabilitation facility; place of amusement or recreation; public community center or publicly owned or maintained building open for use by the general public; or public park or playground.

**5.** The Licensed Premises must be fully situated in a Larimer County Zoning District that permits Retail Marijuana Establishments under the Larimer County Land Use Code.

**6.** No Licensee shall allow smoking or consumption of marijuana on the Licensed Premises.

**7.** The Retail Marijuana Establishment shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing retail marijuana and the theft of retail marijuana, to include at minimum, security cameras, locks, and safes.

**8.** Retail Marijuana Establishments shall only be open to the public between the hours of 8:00AM – 8:00PM Mountain Time, up to seven days a week. Additionally, Retail Marijuana Establishments shall be closed on Christmas Day.

**9.** All Retail Marijuana shall be cultivated within a fully enclosed building.

**10.** Secondary Retail Marijuana Cultivation Facilities shall be limited to one building which shall not exceed 30,000 square feet.

**11.** Applicant must pay any applicable fees, including operating, licensing, application, and County Transportation Capital Expansion Fees, prior to operation of the proposed Retail Marijuana Establishment.

**B.** The Distances referred to in Sections VIII(A)(3) and (4) above shall be computed by direct measure from the nearest property line of the land used for the purposes listed in Section VIII(A)(3) and (4) above to the property line containing the Retail Marijuana Establishments, other than Retail Marijuana Cultivation Facilities and Secondary Retail Marijuana Cultivation Facilities. Distances from cultivation facilities shall be computed by direct measure from the building containing the cultivated marijuana to the building(s) containing the specified uses. An exemption to the requirement for distances shall be offered to the two existing Medical Marijuana businesses, only in their existing establishment buildings, to allow the application of the distance measurements that were in place when these two Licensees applied for, and were awarded their Special Review approvals.

**C.** A Retail Marijuana Cultivation Facility Licensee may seek approval to operate one Secondary Marijuana Cultivation Facility following the review process found in Section X and subject to the standards found in Section VIII. Renewal of the approval for a Secondary Retail Marijuana Facility shall be considered annually in conjunction with the renewal of the Retail Marijuana Cultivation License based on the standards found in Section XVI.E. One Retail Marijuana Cultivation Facility and one Secondary Retail Marijuana Cultivation Facility can be operated with one Retail Marijuana Cultivation Facility License. The Retail Marijuana Cultivation Facility and the Secondary Retail Marijuana Cultivation Facility must be operated by the same licensee.

**D.** Approval of a Retail Marijuana Establishment License is not a defense to federal criminal charges.

**IX. Transfer of Licenses, Change of Location, Expansion of Licensed Premises, Change of Ownership**

**1.** Each License issued under this Resolution is separate and distinct. No Licensee may transfer its License to another Person. A separate License shall be required for each specific business or business entity and for each geographic location.

**2.** Any proposed transfer of capital stock or any change in principal officers or directors of a corporation holding a License shall be reported to the Administrator and approved by the Board prior to such transfer or change.

**3.** Any proposed transfer of membership interest or any change in members of any limited liability company holding a License shall be reported to the Administrator and approved by the Board prior to such transfer or change.

**4.** Any proposed transfer of partnership interest in or change in general or managing partners of any partnership holding a License shall be reported to the Administrator and approved by the Board prior to such transfer or change.

**5.** Any proposed physical expansion of a Retail Marijuana Establishment on a Licensed Premises whether through expansion within a multi-use building, a building addition, or the construction of a new building shall be reported to the Administrator and approved by the Board prior to the expansion or construction.

**56.** A Person may hold a Medical Marijuana License/Approval and one Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility and/or Retail Marijuana Testing Facility License. No Person may hold more than one Retail Marijuana Store License, or more than one Retail Marijuana Cultivation Facility License, or more than one Retail Marijuana Products Manufacturing Facility License or more than one Retail Marijuana Testing Facility License.

**X. Process**

**A. Submittal Requirements**

**1.** Applications for a License must be made to the Administrator on forms prepared and furnished by the Administrator.

**2.** The Administrator shall maintain a checklist of required Submittal Materials. Such checklist shall not, however, preclude the Administrator from requesting additional information where the Administrator deems such information necessary to enable the Planning Commission or Board to determine whether a License should be granted.

**B. Pre-Submittal Conference**

**1.** Applicants must attend a Pre-Submittal Conference.

**2.** The Pre-Submittal Conference is a meeting between the Applicant, the Administrator, a member of the Larimer County Community Development Department staff, and representatives from other County Departments and referral agencies, as appropriate.

**3.** The purpose of the Pre-Submittal Conference is to identify key issues and concerns regarding the proposed Retail Marijuana Establishment so the Applicant may address them in the Application and to determine the Submittal Requirements that will be required as part of a particular Application.

**4.** Applicants must provide to the Administrator a preliminary project description and preliminary site plan prior to the Pre-Submittal Conference.

**5.** Any comments or commitments made by a staff person during the Pre-Submittal Conference are preliminary in nature and may change as the proposed Retail Marijuana Establishment is more specifically described in the Application and Submittal Materials.

### **C. Application**

1. An Applicant must submit the Application and Submittal Materials (collectively “Application”) within 30 days following the Pre-Submittal Conference. Failure to comply with this deadline shall be deemed an affirmative statement by the Applicant that the Applicant does not wish to proceed further.

2. All Applications must be complete in every material detail. The Administrator may refuse to accept an incomplete Application. If an Application is determined to be incomplete, the Applicant must be notified in writing within 10 day of receipt of the Application. An Applicant whose Application is refused due to being incomplete will be given one additional opportunity to submit a revised and complete Application. The second Application must be submitted within 15 days following notice by the Administrator that the initial Application was incomplete.

### **D. Review**

1. Upon receipt of a complete Application, the Administrator will circulate the Application to the Community Development Department, the Engineering Department, the Sheriff’s Office, the Department of Health and Environment, the Building Department, Clerk & Recorder’s office, the applicable water provider, the applicable sewer provider, the applicable fire district, any city or town within three miles of the proposed Retail Marijuana Establishment and any other department or agency deemed appropriate during the Pre-Submittal Conference (collectively “Referral Agencies”).

2. The Referral Agencies shall have 14 days following the day of receipt of the Application to provide written comments to the Administrator describing issues, concerns, suggested alternatives or conditions and/or recommendations for approval or denial of the License.

3. The Administrator shall provide copies of all Referral Agency comments received to the Applicant no later than 10 days after the end of the Referral Agency comment period. The Administrator shall allow the Applicant an opportunity to revise and/or supplement and resubmit the Application for re-review. Such re-submittal must be made to the Administrator within 14 days of Applicant’s receipt of Referral Agency comments.

4. Upon receipt of a revised Application, the Administrator will circulate the revised Application to the Referral Agencies for re-review. The Referral Agencies shall have 14 days following the day of receipt of the revised Application to provide supplemental written comments to the Administrator.

5. Failure of a Referral Agency to timely submit written comments shall not be deemed approval of the Application by that Referral Agency.

**E. Extensions of Time**

The Administrator may extend the time limits specified in Sections X(C) and (D) provided such extensions do not unduly delay the application and review processes.

**F. Planning Commission**

1. The Planning Commission shall hold a public hearing on the Application.
2. The public hearing will be held no later than 90 days after receipt of a complete Application unless the Administrator and Applicant mutually agree to extend this deadline.
3. Written notice of the date, time and place of the Planning Commission hearing shall be given by the Administrator to the Applicant by personal service or by mailing the same to the Applicant at the address contained in the Application or to the last address furnished by the Applicant. Notice of the Planning Commission hearing shall also be published in a newspaper of general circulation in Larimer County and posted in a conspicuous place on the proposed Retail Marijuana Establishment Premises.
4. Notice to the Applicant, publication and posting of the Planning Commission hearing shall be no less than 10 days prior to the hearing.
5. At the public hearing, the Planning Commission shall consider all relevant information presented in verbal testimony or in documents by the Applicant, the Administrator, the Referral Agencies and members of the public.
6. The Planning Commission will determine based on the information presented whether and/or to what degree the Application meets the Standards in Section VIII (A) (3), (4), (5) and (6), and the Review Criteria in Section XII (A) (2), (3), (4), (5), (6), (7) and (11).
7. The Planning Commission shall make a written recommendation for approval, approval with conditions, or denial of the License. The recommendation will include findings stating how the Application meets or fails to meet the Standards and, Review Criteria referred to in Section X(F)(6) of this Resolution.

**G. Board of County Commissioners**

1. The Board shall hold a public hearing on the Application.
2. The public hearing will be held no later than 45 days after the Planning Commission hearing, unless the Administrator and Applicant mutually agree to extend this deadline.
3. Written notice of the date, time and place of the Board hearing shall be given by the Administrator to the Applicant by personal service or by mailing the same to the



Applicant at the address contained in the Application or to the last address furnished by the Applicant. Notice of the Board hearing shall also be published in a newspaper of general circulation in Larimer County and posted in a conspicuous place on the proposed Retail Marijuana Establishment Premises.

4. Notice to the Applicant, publication and posting of the Board hearing shall be no less than 10 days prior to the hearing.

5. At the public hearing, the Board shall consider all relevant information presented in verbal testimony or in documents by the Applicant, the Administrator, the Referral Agencies and members of the public. All persons testifying shall be sworn-in individually or en masse.

6. The Board will determine based on the information presented whether and/or to what degree the Application meets the Standards, the Review Criteria, and other applicable provisions of this Resolution.

7. The Board will decide whether to approve, approve with conditions or deny the Application. The Board may announce its decision at the conclusion of the hearing. The Board's official final decision will be in the form of a written resolution. The resolution will include findings stating how the Application meets or fails to meet the Standards, Review Criteria or other applicable provisions of this Resolution.

## **H. Appeal**

Final decisions by the Board are subject to review pursuant to Section 24-4-106 C.R.S.

## **XI. Fees**

All applicants for licensure and renewal of licensure under this Resolution shall pay the applicable fees pursuant a schedule of fees set and/or amended by the Board of County Commissioners at an open meeting for which advance notice has been given as required by the Colorado Open Meetings Law (commonly referred to as the "Sunshine Law").

## **XII. Review Criteria**

A. In determining whether to approve or deny an Application for a Retail Marijuana Establishment the following criteria shall be considered as applicable.

1. The fitness to conduct the Retail Marijuana Establishment and the character and reputation of the Applicant, including the officers, directors, and managers. In investigating the fitness, character and reputation, the Board may consider:

**a.** The Applicant's criminal history. In considering the criminal history, the Board shall have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In taking into consideration information concerning the criminal history record, the Board shall also consider:

**i.** Whether the Applicant has knowingly submitted false applications, made willful misrepresentations and/or knowingly committed fraudulent acts.

**ii.** Whether the Applicant has had previous Medical or Retail Marijuana Establishment Licenses, or Alcohol Beverage Licenses denied, or revoked as a result of violation of law, resulting in a finding of bad moral character by any licensing authority.

**iii.** Whether the Applicant has been found to be currently delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means.

**iv.** Whether the Applicant has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license, leading to the finding of bad moral character by any licensing authority.

**b.** When making a determination as to the fitness, character and reputation of the Applicant, the Board shall consider any information provided by the Applicant, including but not limited to evidence of no criminal record, rehabilitation, character references, and educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a License.

**2.** Whether the proposed Retail Marijuana Establishment is compatible with existing and allowed uses in the surrounding area and is in harmony with the neighborhood.

**3.** The number, type and availability of Retail Marijuana Establishments located in or near the Licensed Premises under consideration and whether granting the License will result in or add to an undue concentration of Retail Marijuana Establishments, and/or result in a need for additional law enforcement resources.

**4.** Outside a GMA District, whether the proposed Retail Marijuana Establishment is consistent with the County Master Plan. Within a GMA District, whether the proposed Retail Marijuana Establishment is consistent with the applicable supplementary regulations for that GMA District. If there are no supplementary regulations, whether the proposed Retail Marijuana Establishment is consistent with the County Master Plan or any applicable County Adopted Sub-area Plan.

5. Whether the proposed Retail Marijuana Establishment will result in a substantial adverse impact on property in the vicinity of the proposed Retail Marijuana Establishment;

6. Whether the proposed Retail Marijuana Establishment complies with the applicable standards found in Section 8 of the Larimer County Land Use Code;

7. Whether the buildings and structures to be used for the proposed Retail Marijuana Establishment have been inspected by the Larimer County Chief Building Official and determined to be compliant with all applicable building code provisions and that all necessary building permits have been obtained;

8. Whether the proposed Retail Marijuana Establishment has all required well and septic permits or is adequately served by public water and sewer;

9. Whether any offensive odors emanating from the proposed Retail Marijuana Establishment have been reported, or any reported odor problem has been rectified;

10. Whether all real and personal property taxes have been paid for the proposed Retail Marijuana Establishment or for any other property in the County owned by the Applicant; and

11. Whether the proposed Retail Marijuana Establishment has satisfactory vehicular access and parking facilities, has provided for reasonably required offsite transportation improvements to serve the proposed site, and/or whether the Applicant has suitably mitigated any traffic hazards associated with the use.

**B.** The Board may deny an Application if the Applicant does not show by a preponderance of the evidence presented at the hearing that the proposed Retail Marijuana Establishment can be operated in a manner that will not adversely affect the public health or welfare or the safety of the immediate neighborhood in which the proposed Retail Marijuana Establishment is to be located.

**C.** The Board may impose conditions upon the approval of Application which the Board deems reasonably related to the furtherance and protection of the health, safety and welfare of the neighborhood in which the proposed Retail Marijuana Establishment is to be located and of the general public, provided such conditions are not Reasonably Impracticable.

### **XIII. Waivers**

The Board of County Commissioners may waive any requirement, standard or condition of this Resolution for specific License Applications for good cause, including but not limited to:

1. Where the Applicant offers an alternative which advances or protects the public interest and the intent and purpose of this Resolution equally or better than the requirement, standard or condition imposed by this Resolution; or

2. Where the requirement, standard or condition would be unreasonably impracticable; or

3. Where compliance would be counterproductive or would minimally promote the intent and purpose of this Resolution.

#### **XIV. Compliance with Other Regulations**

Nothing in this Resolution is intended to waive Licensee's requirement to comply with other applicable federal, state or local regulations, including but not limited to the Colorado Retail Marijuana Code and implementing regulations, building codes, fire codes, sign codes, health laws and regulations, County noise ordinance, etc.

#### **XV. Limitation on Number of Retail Marijuana Establishments**

A. The number of Retail Marijuana Stores allowed at any given time in unincorporated Larimer County shall be limited to two. The number of Retail Marijuana Cultivation Facilities allowed at any given time in unincorporated Larimer County shall be limited to two. The number of Retail Marijuana Products Manufacturing Facilities allowed at any given time in unincorporated Larimer County shall be limited to two. The number of Retail Marijuana Testing Facilities allowed at any given time in unincorporated Larimer County shall be limited to two.

B. The two Medical Marijuana Businesses/Owners in Larimer County listed below each have County approval for their businesses to sell Medical Marijuana and to cultivate Medical Marijuana. These two businesses shall be given until February 1, 2014 to submit an Application to operate a Retail Marijuana Store and/or a Retail Cultivation Facility at their current geographical locations:

Choice Organics, Inc.  
Brian & Erica Freeman  
813 Smithfield Drive, Unit B  
Fort Collins, CO 80524

Flower Power Botanicals, LLC  
Peter Verchick  
1308 Duff Drive  
Fort Collins, CO 80524

C. Should either of the two above Businesses/Owners fail to apply to operate either a Retail Marijuana Store and/or a Retail Marijuana Cultivation Facility by February 1, 2014, or should either of these Businesses be denied a License to operate either a Retail Marijuana Store

and/or Retail Marijuana Cultivation Facility, the Administrator shall publish notice in newspapers of general circulation in Larimer County stating that Larimer County shall accept Notices of Intent to Apply for Licensure of a Retail Marijuana Store and/or Retail Marijuana Cultivation Facility as applicable and the date by which such Notice of Intent must be submitted.

**D.** Whenever the number of Licenses issued for any class of Retail Marijuana Establishments is less than two, the Administrator shall accept applications for the available Licenses using the following procedure:

**1.** The Administrator shall publish notice in newspapers of general circulation in Larimer County stating that Larimer County shall accept Notices of Intent to Apply for the available Retail Marijuana Establishment Licenses and the date and method(s) by which such Notice of Intent must be submitted.

**2.** The Administrator shall keep record of the date and time of receipt of each Notice.

**3.** The Administrator shall review all Notices received and shall determine:

**a.** Whether the Person has prior experience producing or distributing marijuana or marijuana products pursuant to Amendment 64 and the Colorado Medical Marijuana Code in Larimer County; and

**b.** Whether the Person has during such experience complied consistently with Amendment 64 and the Colorado Medical Marijuana Code and conforming Regulations.

**4.** Those Persons who meet the foregoing criteria shall be placed on a Primary List in the order in which such Person's Notice was received. Persons who do not meet the foregoing criteria shall be placed on a Secondary List in the order in which such Person's Notice was received.

**5.** The first Person on the Primary List shall be permitted to submit an Application by the date stated in a letter sent by the Administrator notifying the Person that they may submit an Application. If the first Application is denied, the second Person on the Primary List will be permitted to submit an Application.

**6.** If all Persons on the Primary list are exhausted (i.e. their Application is denied or withdrawn), the Administrator shall proceed to the Persons on the Secondary List. This process shall be repeated until such time as available Retail Establishment Licenses are issued.

## **XVI. License Renewal**

**A.** Application for renewal of an existing License shall be made no less than 90 days prior to the date of expiration. Applications must be made to the Administrator on forms

prepared and furnished by the Administrator. Applicants must provide such information as the Administrator may require to enable the Board of County Commissioners to determine whether a Renewal License should be granted.

**B.** The Administrator will schedule a hearing before the Board within 45 days after receipt of a complete Application, unless the Board has elected to waive the hearing based on information that there is no opposition to the renewal and the Licensee has operated the Retail Marijuana Establishment in compliance with all laws and conditions of the License. Notice of the renewal hearing shall be advertised in a newspaper of general circulation no less than 10 days and conspicuously posted on the Licensed Premises for no less than 10 days prior the date of the hearing.

**C.** The Board of County Commissioners may waive the time requirements set forth in Section XV(A) above for good cause as determined by the Board in its discretion. A Licensee whose License has expired for not more than 90 days may file a late renewal application upon payment of a nonrefundable late application fee. A Licensee who files a late renewal application and pays the requisite fee may continue to operate until the Board of County Commissioners has taken final action to approve or deny the Renewal License.

**D.** Any Licensee whose License has expired more than 90 days must apply for a new License pursuant to this Resolution and shall not operate the Retail Marijuana ~~Store~~ **Establishment** or sell Retail Marijuana until all required licenses have been obtained.

**E.** In determining whether to grant or deny a Renewal License the Board shall consider the following as applicable:

- 1.** Whether the Applicant has failed to comply with any of the terms, conditions or provisions of the State Retail Marijuana Code and any rules or regulations promulgated thereunder, or this Resolution.
- 2.** Whether the Applicant has failed to comply with any terms or conditions that were placed on its State Retail Marijuana License or a License issued under this Resolution.
- 3.** Whether the Licensed Premises has been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the Retail Marijuana Establishment is located.
- 4.** Whether complaints about the Retail Marijuana Establishment have been made to the Administrator or others by the public or law enforcement.
- 5.** Whether there has been increased need for law enforcement in the vicinity of the Retail Marijuana Establishment related to or as a result of its operation.
- 6.** Whether the Applicant has changed its business structure and whether the current owners, officers, managers, contractors, employees, and other support staff have completed a fingerprint-based criminal history record check and the results of such check.

7. Whether any physical modifications have been made to the Licensed Premises.

8. Whether the Applicant owns the Licensed Premises or has a valid lease, rental agreement or other arrangement for possession of the Licensed Premises for the term of the renewal.

F. Any Renewal License shall be valid for one year from the date of renewal unless earlier revoked or suspended.

### **XVII. Inspections of Premises**

A. The Administrator and/or his/her designee(s) is authorized to enter or inspect the Licensed Premises to ensure compliance with this Resolution. These inspections will be carried out during normal business hours except in emergency situations described in subsection XVII(E) below.

B. Entry onto the Licensed Premises for inspection will be made only after contact with the Licensee, whose permission for the inspection must be obtained.

C. If the Licensee of the premises cannot be located or permission to enter cannot be obtained, the Administrator may seek an administrative search warrant or court order allowing entry by submitting a sworn affidavit to the county or district court detailing facts to support a reasonable belief that a violation is likely to exist and that further investigation of the premises is warranted.

D. Any subsequent entry and inspection must be conducted in accordance with the administrative search warrant or order issued by the court. Inspections may be conducted from public property or right-of-way, or from adjacent private property without the permission of the Licensee.

E. Notwithstanding the provisions of subsections XVII(A-D) above, permission to enter or a court order is not required in emergency situations in which the Administrator has reason to believe public health or safety is in imminent danger and could be jeopardized by any delay in obtaining permission to enter or a court order.

### **XVIII. Inspection of Books and Records**

A. Each Licensee shall keep a complete set of books of account, invoices, copies of orders, shipping instructions, bills of lading, weigh bills, correspondence, and all other records necessary to show fully the business transactions of such Licensee, all of which shall be open at all times during business hours for the inspection and examination by the Administrator or his/her designee.

**B.** The Administrator or his/her designee may require any Licensee to furnish such information as it considers necessary for the proper administration of this Resolution, and may require an audit to be made of such books of account and records on such occasions as it may consider necessary by an auditor to be selected by the Administrator who shall likewise have access to all books and records of such licensee, and the expense thereof shall be paid by said Licensee.

## **XIX. Violation**

**A.** It is a violation of this Resolution for any Person:

1. To operate a Retail Marijuana Establishment without the required License,  
or
2. To fail to comply with any of the terms, conditions or provisions of this Resolution, or
3. To fail to comply with any terms, conditions or provisions of any License issued pursuant to this Resolution, or
4. To fail to pay any applicable fees, taxes, fines or penalties required for operation of a Retail Marijuana Establishment.

**B.** A violation of this Resolution by a Retail Marijuana Establishment, whether by the Licensee, his or her employees, agents, or otherwise, shall be the responsibility of the Licensee.

## **XX. Enforcement**

**A. Suspension or Revocation of License**

1. The Board, on its own motion or on complaint, after investigation and public hearing at which the Licensee shall be afforded an opportunity to be heard, may suspend or revoke any License for violation by the Licensee or by any of the agents, servants, or employees of such Licensee of the provisions of this Resolution, or of any of the terms, conditions, or provisions of the License.
2. The Board is authorized 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 any hearing that the Board is authorized to conduct.
3. Notice of proposed suspension or revocation, as well as the date, time and place of the hearing, shall be given by the Administrator to the Licensee by personal service or by mailing the same in writing to the Licensee at the address contained in such License to the last address furnished by the Licensee.



**4.** Notice required by Subsection XIX (A)(3) above shall state the objective facts or conduct established by an investigation that may warrant suspension or revocation of the License. Notice shall be given no less than 10 days in advance of the hearing.

**5.** At the hearing, the Board shall consider all relevant information presented by the Licensee and others, including testimony and documents.

**6.** The Board may announce its decision at the conclusion of the hearing. The Board's final, official decision shall be in writing and shall set out its findings and conclusions. The Board's decision may be personally delivered to the Licensee or mailed first class in accord with Subsection XIX(A)(3) above.

**7.** No suspension shall be for a longer period than six months.

**8.** If any License is suspended or revoked, no part of the fees paid therefore shall be returned to the Licensee.

**9.** The Board may summarily suspend any License for a temporary period not to exceed 15 days upon written notice to the Licensee pending any prosecution, investigation, or public hearing.

**10.** Whenever the Board decides to suspend the License for 14 days or less becomes final, whether by failure of the Licensee to appeal the decision or by exhaustion of all appeals and judicial review, the Licensee may, before the operative date of the suspension, petition the Board for permission to pay a fine in lieu of having the License suspended for all or part of the suspension period. Upon the receipt of the petition, the Board may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

**a.** That the public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

**b.** That the books and records of the Licensee are kept in such a manner that the loss of sales of retail marijuana and marijuana products that the Licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

**c.** That the Licensee has not had his or her License suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the License.

**d.** The fine accepted shall be the equivalent to 20 percent of the Licensee's estimated gross revenues from sales of retail marijuana and marijuana products during

the period of the proposed suspension; except that the fine shall be not less than \$200 nor more than \$5,000.

**11.** Payment of any fine pursuant to the provisions of this subsection XIX(A)(10) shall be in the form of cash or certified check or cashier's check made payable to Larimer County.

**12.** The Board shall cause such monies to be paid into the general fund of Larimer County.

**13.** Upon payment of the fine pursuant to subsection XIX(A)(10), the Board shall enter its further order permanently staying the imposition of the suspension.

**B. Civil Penalties**

**1.** The Board may impose a civil penalty against any Person who violates this Resolution, or any terms, conditions, or provisions of a License ("Violator"), in the amounts specified below:

\$500 to \$1,000 for the first violation.

\$1,000 to \$2,000 for the second violation within 30 days of the first violation.

\$2,000 to \$5,000 for each successive violation within 30 days of the prior violation.

**2.** No civil penalty shall be imposed by the Board until the alleged Violator has been given written notice and an opportunity to be heard.

**3.** Notice required by Subsection XIX (B)(2) above shall be given to the alleged Violator and shall state the objective facts or conduct established by an investigation that may warrant a Civil Penalty and the date, time and place of the hearing. Notice may be hand delivered to the Violator or mailed first class to the address shown on the Application or to the last address furnished by the alleged Violator or available Notice shall be given no less than 10 days in advance of the hearing.

**4.** The Board is authorized 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 any hearing that the Board is authorized to conduct.

**5.** At the hearing, the Board shall consider all relevant information presented by the alleged Violator and others, including testimony and documents.

**6.** The Board may consider mitigating and aggravating factors when considering the imposition of a civil penalty, including but not limited to:

- a. Action taken by the Licensee to prevent the violation (e.g. training provided to employees).
- b. Licensee's past history of success or failure with compliance checks.
- c. Corrective action(s) taken by the Licensee.
- d. Prior violations/prior corrective action(s) and their effectiveness.
- e. Willfulness and deliberateness of the violation.
- f. Likelihood of reoccurrence of the violation.

7. The Board may announce its decision at the conclusion of the hearing. The Board's final, official decision shall be in writing and shall set out its findings and conclusions. The Board's decision may be personally delivered to the Violator or mailed first class in accordance with Subsection XIX(B)(3) above.

8. Payment of any civil penalty pursuant to the provisions of this subsection XIX(B) shall be in the form of cash or certified check or cashier's check made payable to Larimer County.

9. The Board shall cause such moneys to be paid into the general fund of Larimer County.

**C. Civil Remedies**

1. The Board may initiate injunction or abatement proceedings or any other appropriate legal action in district court or other court having jurisdiction against any Person or Licensee who fails to comply with any provision of this Resolution or any requirement or condition imposed under this Resolution.

2. The Board may seek a court order in the nature of mandamus, abatement, injunction or other action to abate or remove a violation or otherwise restore the premises to the condition that existed prior to the violation.

**D. Remedies Cumulative**

All penalties and remedies for violation of this Resolution are cumulative.

**XXI. Reports**

The Board shall report all actions taken to impose fines, suspensions, revocations, civil penalties and civil proceedings to the Colorado State Licensing Authority in a manner as required by the State Licensing Authority.

**XXII. Amendments**

**A.** The Board may amend this Resolution after notice and hearing by the Larimer County Planning Commission and notice and hearing by the Board of County Commissioners.

**B.** Notwithstanding the foregoing, the Administrator, with consent of the Board, may waive the notice and hearing by the Planning Commission for minor amendments.

**C.** The Board of County Commissioners may make non-substantive amendments (e.g. typographical errors, language clarifications, etc.) administratively at any open meeting.

**XXIII. Severability**

The provisions of this Resolution are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Resolution or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Resolution.

**XXIV. Effective Date**

This Resolution shall be effective on January 1, 2021.

**Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.**

**BOARD OF COUNTY COMMISSIONERS OF  
LARIMER COUNTY, COLORADO**

**By:** \_\_\_\_\_  
**Chair**

**ATTEST:**

\_\_\_\_\_  
**Deputy Clerk to the Board**