

**AN ORDINANCE OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
AMENDING ORDINANCE NO. 2014-003, PROVIDING FOR LICENSING AND PERMITTING
OF MEDICAL MARIJUANA FACILITIES, MARIJUANA CULTIVATION FACILITIES,
MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND RETAIL MARIJUANA
STORES**

WHEREAS, the Board of County Commissioners has previously adopted Ordinance 2014-003 ("2014 Ordinance") which Ordinance provides for licensing and permitting of marijuana cultivation facilities, marijuana product manufacturing facilities and retail marijuana stores; and prohibited operation of marijuana testing facilities until February 28, 2016, except for certain facilities in operation prior to May 11, 2011; and

WHEREAS, the Board of County Commissioners has had work sessions to discuss and consider revisions to the 2014 Ordinance and to address issues and concerns that have arisen during the course of the first year of licensing and permitting of the various retail marijuana establishments; and

WHEREAS, the Board of County Commissioners concludes that, generally, the licensing and permitting provisions of the 2014 Ordinance have been successfully implemented, but that certain revisions and refinements to the 2014 Ordinance will improve the licensing and permitting process, consideration of renewal applications, change of location and ownership applications, and enforcement actions; and

WHEREAS, the Board desires to adopt this ordinance amending Ordinance 2014-003, extending the prohibition of the operation of marijuana testing facilities, while continuing to permit and license cultivation facilities, marijuana product manufacturing facilities, and retail marijuana stores with additional and revised provisions;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO:

ONLY THOSE SECTIONS OF ORDINANCE 2014-003 THAT ARE BEING AMENDED, REVISED, OR REPLACED ARE INCLUDED HEREIN; WITH NEW PROVISIONS INCLUDED IN EXISTING SECTIONS, OR AS NEW SECTIONS, AS APPLICABLE, FOR EASY REFERENCE. ANY SECTIONS NOT INCLUDED BELOW ARE REAFFIRMED AND READOPTED AS SET FORTH IN ORDINANCE 2014-003.

IT IS THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS IN ADOPTING THE REVISIONS TO THIS ORDINANCE THAT LICENSEES AS OF THE DATE OF THESE REVISIONS WILL CONTINUE TO BE RENEWED UNDER SUBSTANTIVE TERMS SUCH AS LOCATION, SIZE OF FACILITY, AND WATER SUPPLY IN EFFECT WHEN THEIR LICENSE WAS ORIGINALLY APPROVED, BUT WILL BE SUBJECT TO THE PROCEDURAL PROVISIONS OF THIS AMENDED ORDINANCE.

Section 3. Amendment and Extension of Ordinance 2014-003

Ordinance 2014-003 is hereby reaffirmed and readopted except as specifically amended or revised herein. With respect to marijuana testing facilities, Section 3 of Ordinance 2014-003 is hereby amended by extending the termination of the moratorium date from February 28, 2016 to December 31, 2018.

Section 4. Colorado Retail Marijuana Code, Colorado Medical Marijuana Code, Compliance.

The definitions contained in the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101, *et seq.* and the corresponding regulations adopted by the Colorado Department of Revenue are incorporated herein as though fully set forth. Further, all operation of marijuana cultivation, retail and production in Ouray County shall be in compliance with the Colorado Retail Marijuana Code, and the Colorado Medical Marijuana Code, as applicable, and the applicable Regulations adopted by the Colorado Department of Revenue, as those regulations may be amended from time to time. No marijuana facility shall be operated in Ouray County except as permitted and licensed by the State of Colorado, pursuant to state law, and in full compliance with terms and conditions imposed by the State of

Colorado. Any marijuana facility that is in non-compliance with any provision of a state permit or license, law or regulations, shall be deemed in violation with this Ordinance.

Section 7. Requirements of Applications.

- (A) A person seeking a license or renewal of a license issued pursuant to this Ordinance shall submit an application to the Local Licensing Authority on forms provided by the Land Use Staff. At the time of application, each applicant shall pay a non-refundable operating fee to the County in an amount to be determined by the County by separate Resolution to defray the costs incurred by the County including, but not limited to, processing the license, administration, inspection and enforcement of marijuana facilities.
- (B) A copy of the application and all supporting documentation provided to the State of Colorado for licensing under state law and regulations shall be provided with the application to the County. Prior to approval by the Local Licensing Authority, the applicant shall provide a copy of the license or other approval from the State of Colorado to operate in the State of Colorado.
- (C) Applicants are strongly urged to schedule a pre-application meeting with Land Use staff to determine what additional documents will be required prior to processing. For construction of new buildings or structures, it may be necessary to submit elevation drawings, drawings or depictions of proposed fencing, proposed blending, architectural, and landscaping plans to limit visual impacts,
- (D) Public notices, notices to adjacent and neighboring property owners, on-site posting are required for all new applications. Written notice must be sent to adjacent property owners, and property owners within 500 feet of the property line of the proposed facility. The procedures for notices shall be as provided in applicable provisions of the Land Use Code, and will be provided to applicants by the Land Use staff upon request, or upon receipt of a complete application.

Section 8. Cultivation Facilities.

- (A) Licensed marijuana cultivation facilities and premises may propagate, cultivate, harvest, prepare, cure, package and label marijuana, whether in concentrated form or otherwise, and sell marijuana that they have cultivated to a person licensed by the State of Colorado to operate a medical marijuana facility or retail marijuana store, production facility, testing facility, or other cultivation facility. Licensed marijuana cultivation facilities are prohibited from selling marijuana to any consumer.
- (B) Marijuana cultivation facilities may only be located on a legal, conforming lot in unincorporated Ouray County where farming and ranching is a use by right pursuant to the Ouray County Land Use Code; however, no cultivation may occur without a license under this Ordinance. No cultivation facility may be located within 1000 feet of a school or licensed day care/child care facility. All cultivation activities shall occur within an enclosed space, and shall be subject to all security requirements imposed by this Ordinance and by state law and regulations. Applicants must demonstrate that the proposed location of the cultivation facilities on the lot will minimize off-site impacts of the facility: 1) to adjacent residents or properties; 2) on traffic congestion on local streets and roads; 3) of odor, light, and noise; 4) visually. Applicant shall demonstrate that the proposed operation meets the general criteria of the Special Use Permits Section of the LUC. Applicants must demonstrate that the proposed facility is in general conformance with the Ouray County Master Plan, and can be constructed and operated in a manner that is compatible with adjacent property uses.
- (C) Applicants shall provide information and such documentation as Land Use staff may reasonably require demonstrating the availability of an adequate water supply for both irrigation and domestic uses during the term of the license, and shall confirm such information and demonstrate continued availability of an adequate water supply as part of any renewal application. Hauled water may not be used as a source of water and shall not be considered an adequate water supply except as an emergency, temporary supply.
- (D) There shall be no more than eight (8) marijuana cultivation facilities licensed in Ouray County during 2016, including both renewals of applications approved in 2015 and new applications approved in 2016. License applications filed prior to October 1m 2915, but not certified as complete by staff as of November 17, 2015 will be deemed ineligible for a 2015 license and all or a portion of the application may be returned. Such applicants may submit a new application for a

2016 license to be processed and acted upon under the provisions of this amended Ordinance. Applications for available licenses in 2016 will be accepted by the Land Use staff on a "first come, first served" basis, commencing at 8:00 a.m. on December 1, 2015 by hand-delivery to the Land Use offices at 111 Mall Road, Ridgway, Colorado, with priority given to any existing farming and ranching business operation in Ouray County, and then any other applications, as they were received. All other applications shall be processed in order of receipt. In the event that an application for a new license or for renewal of an existing license is denied by the Local Licensing Authority, the Land Use staff will process the next application in priority of time. Land Use staff may refuse to accept Applications that are deemed incomplete, or may permit an Applicant a reasonable amount of time to complete or amend an application, not to exceed sixty (60) days. Any application that is materially or substantially amended, including changes in the name of the applicant, the proposed location of the facility, or any combination of amendments, may be considered incomplete and, when amended will be placed at the end of the priorities in time. Additional applications for 2016 may be filed with the Land Use staff, but there shall be no more than a total of eight (8) cultivation facilities licensed in 2016. If a cultivation facility licensed in 2015 fails to timely renew its application pursuant to Section 13, or is denied a renewed license, or has otherwise ceased to operate with a license in Ouray County, then Land Use staff may process the next new application in priority of time. No more than two (2) "contingent" applications will be accepted by the Land Use Staff.

- (E) Marijuana cultivation facilities shall be subject to all provisions of the Ouray County Land Use Code.
- (F) Operators of marijuana cultivation facilities shall use best practices to conserve energy and water in cultivation operations, and shall avoid the use of treated water from a domestic water provider for irrigation purposes.
- (G) Internal grow-lighting used during night-time hours (from sunset to sunrise) shall not be visible from the exterior of the building. Exterior lighting shall be consistent with the Ouray County Land Use Code.
- (H) Marijuana cultivation facilities shall reduce visual impacts through blending, architectural design, landscaping, site placement, building materials, and other measures, as determined by the Local Licensing Authority, to limit the visibility and reflectivity of any building or structure, including greenhouses, from adjacent properties or roads. Cultivation facility structures, including greenhouses, may not cover more than 10% of the total square footage of the lot or parcel.

Section 9. Retail or Medical Marijuana Stores and Licensed Premises.

- (A) Retail or medical marijuana stores and facilities may be located within unincorporated Ouray County where retail or commercial operations are permitted under the Ouray County Land Use Code or pursuant to an approved PUD. All applicable provisions of the Land Use Code shall apply, including requirements for a special use permit for retail or commercial uses in pertinent zoning districts.
- (B) No retail marijuana store or facility shall be located within 1,000 feet of any school or licensed day care/child care facility.
- (C) Signage and advertising shall be permitted as provided in the Land Use Code and pursuant to state law and regulations, but in the event of a conflict between state law and the Land Use Code, the more stringent requirement shall apply.
- (D) In any retail marijuana store in which edibles are sold to consumers, a sign shall be prominently and conspicuously displayed to inform consumers that the edible products have not been inspected by, or on behalf of, the county public health agency.
- (E) Any edibles sold in a retail marijuana store shall be sold in "child-resistant" packaging, as defined by state regulations, and labeled as follows: "This product is not for consumption by anyone under the age of 21." Any more stringent state regulations for packaging or labeling of edibles shall be applicable in addition, or if in conflict, shall supersede this provision.
- (F) There shall be posted in a conspicuous location in each retail marijuana store a legible sign with the following warning:

"The use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle

or operate machinery, it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of, or impaired by, marijuana.

"Possession and distribution of marijuana is a violation of federal law.

"No one under the age of twenty-one (21) years is permitted on the premises."

Section 10. Retail Marijuana Products Manufacturing Facility.

- (A) Retail marijuana production facilities, including production of edibles, may be located within unincorporated Ouray County to the extent that such facility can be operated within the provisions of the definition of Home Business in the Ouray County Land Use Code, but no retail marijuana production facility shall be located within 1000 feet of a school or daycare/child care facility.
- (B) Licensed retail marijuana products manufacturers may manufacture, prepare, package and label retail marijuana products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption. Licensed retail marijuana products manufacturers may sell retail marijuana products of its own manufacture to persons holding a retail marijuana store license from the State of Colorado, or to other licensed retail marijuana products manufacturers. Licensed retail marijuana products manufacturers are prohibited from selling retail marijuana or retail marijuana products to any consumer. No compressed, flammable gas may be used in any production methodology, including use as a solvent in the extraction of THC or other cannabinoids.
- (C) Licensed retail marijuana products manufacturers are prohibited from manufacturing, preparing, packaging or labeling marijuana products in a location that is operated as a retail food establishment or as a wholesale food facility.
- (D) All packaging shall include a notice that the contents have not been inspected by the county public health agency.

Section 13. Issuance of license, Duration, Renewal, Modifications and Transfers of Licenses.

- (A) Upon issuance of a license, the County shall provide the licensee with one (1) original of such license for each establishment or facility to be operated by the licensee in the County. This original license shall be displayed in a location visible to the public or to enforcement officials. The license shall include the name and address of the licensee, the type of facility permitted, and the address of the facility at which it is to be displayed.
- (B) Each license issued pursuant to this Ordinance shall be valid for one (1) year from the date of issuance, and may be renewed only as provided by this Ordinance. A renewal application shall be filed not less than sixty (60) days prior to expiration and not more than ninety (90) days from expiration. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal. An untimely application may be accepted upon the payment of a late application fee of \$500.00 to expedite processing, and such application shall serve to extend the license until a decision is made on the renewal.
- (C) Notwithstanding any state law to the contrary, a licensee whose license expires and for which an application for renewal has not been received prior to the expiration date, shall be deemed to have forfeited its license under this Ordinance. The County shall not accept a renewal application after the expiration of the license. A licensee whose license expires shall not cultivate, harvest, process, manufacture, produce, or sell retail marijuana or retail marijuana products until a new license has been obtained.
- (D) Renewal licenses may be administratively issued by the Land Use staff for a period of one year if staff finds that there have been no continuing violations of state law or this Ordinance and there are no substantial revisions, amendments or alterations to the existing facility or any term of a lease, water supply, or other local license term or condition. Land Use staff may request that the Local Licensing Authority review and consider any renewal application. An applicant may request that the Local Licensing Authority review and consider any application. Any renewal application that contains significant or substantial changes, revisions, alterations, or expansion of size of the facility shall be required to complete an updated application form and shall be considered by the Local Licensing Authority. At the sole discretion of the Local Licensing Authority, a renewal license may be issued for a period in excess of one (1) year, depending upon the compliance history of the licensee, and such other factors as the Local Licensing Authority in its sole

discretion may determine are relevant.

- (E) Modifications of a license during the term of the license may be made by submitting an application identifying the modifications requested in the locally issued license. Such modifications will be considered by the Local Licensing Authority and approved or denied in the discretion of the Local Licensing Authority.
- (F) The Local Licensing Authority will consider all requests for transfer of a local license to a new person, or business entity upon the submittal by a licensee and proposed transferee of an application for transfer the license. The application shall include documentation that the State has approved, or has conditionally approved, the transfer of the corresponding state license or permit to the proposed transferee. The Local Licensing Authority may request such additional investigation or information as it deems necessary to make an informed decision, and may approve or deny the application for transfer in its discretion, and upon such terms and conditions as may be approved by the Local Licensing Authority and agreed to by the proposed transferee.
- (G) Notwithstanding state requirements for individual licenses for multiple activities at one location, Ouray County will license each facility for the activity or activities conducted. For example, if the State of Colorado requires a separate license for each section of plants grown within the same cultivation facility or greenhouse, as each section is used for a licensed medical or retail operation, one license would be required from Ouray County for the cultivation or greenhouse facility, even if some plants grown in the facility are used for medical dispensary purposes and some plants are used for retail operations.

Section 14. Authority to Impose Conditions on License, or to Deny License.

The Local Licensing Authority shall have the authority to impose such reasonable terms and conditions on a license, or to deny a license or renewal of a license, as may be necessary to protect the public health, safety and welfare of the people of Ouray County, and to obtain compliance with the requirements of this Ordinance and applicable law. All approvals by the Local Licensing Authority shall include a consideration of whether the proposed activity or facility is in general conformance with the Master Plan, and shall include consideration of whether the proposed activity or facility can be conducted or constructed and operated in a manner that is compatible with the adjacent land uses.

Section 17. Security.

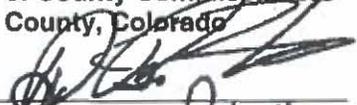
All security measures shall be in compliance with state law and regulations, and shall include security surveillance cameras, robbery and burglary alarms, a locking safe affixed to the premises, exterior lighting, and deadbolt locks on all exterior doors, and on-site security presence. The Ouray County Sheriff may inspect the premises at any time to ensure appropriate security measures are in use, and to ensure compliance with state laws and regulations. All exterior lighting shall comply with Ouray County Outdoor Lighting Regulations.

Section 27. Effective Date.

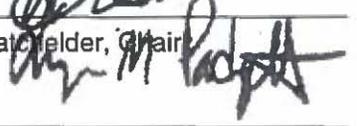
Pursuant to C.R.S. 30-15-405, this Ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of County Commissioners and shall be effective thirty (30) days following such publication by title only.

INTRODUCED AND FIRST READING on October 27, 2015 and on such date ordered published in the OURAY COUNTY PLAINDEALER. Published on October 29, 2015.

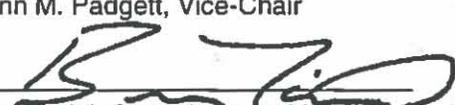
Board of County Commissioners
Ouray County, Colorado



Don Batchelder, Chair



Lynn M. Padgett, Vice-Chair



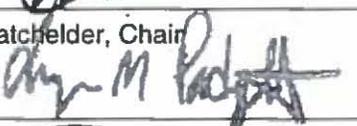
Ben Tisdel, Commissioner Member

ADOPTED ON SECOND AND FINAL READING on November 17, 2015.

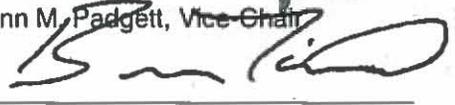
Board of County Commissioners
Ouray County, Colorado



Don Batchelder, Chair



Lynn M. Padgett, Vice-Chair



Ben Tisdel, Commissioner Member

EFFECTIVE DATE DECEMBER 19, 2015

CERTIFICATION BY OURAY COUNTY CLERK AND RECORDER:

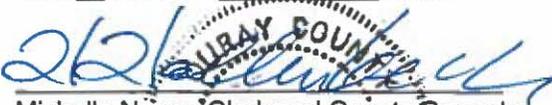
I, Michelle Nauer, Clerk and Recorder of Ouray County and Clerk to the Board of County Commissioners, do hereby attest and certify that this Ordinance was

INTRODUCED AND READ ON OCTOBER 27, 2015 AND CONTINUED TO NOVEMBER 17, 2015 AND READ AND ORDERED PUBLISHED AT SUCH REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS.

THE ORDINANCE WAS PUBLISHED IN FULL IN THE OURAY COUNTY PLAINDEALER ON OCTOBER 29, 2015 ALONG WITH A NOTICE OF PUBLIC HEARING.

ADOPTED AND APPROVED AT A PUBLIC HEARING OF THE BOARD OF COUNTY COMMISSIONERS ON NOVEMBER 17, 2015 AFTER THE SECOND AND FINAL READING OF THE ORDINANCE.

PUBLISHED AFTER ADOPTION IN THE OURAY COUNTY PLAINDEALER ON THE 19 DAY OF NOVEMBER, 2015.



Michelle Nauer, Clerk and County Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

