

CITY OF RIFLE, COLORADO
ORDINANCE NO. 18
SERIES OF 2018

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING
ARTICLES VII AND IX OF CHAPTER 4, AND ARTICLE VII CHAPTER 6
OF THE RIFLE MUNICIPAL CODE, PERTAINING TO THE LICENSING
AND REGULATION OF MARIJUANA BUSINESSES, AND PROVIDING
FOR A SPECIAL SALES TAX ON RETAIL MARIJUANA PRODUCTS.

WHEREAS, the City of Rifle (“Rifle” or the “City”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Rifle Home Rule Charter; and

WHEREAS, pursuant to Article XVIII, Sections 14 and 16 of the Colorado Constitution, the use of medical and retail marijuana has been authorized within the State of Colorado subject to state regulation and the right of local control; and

WHEREAS, by Ordinance Nos. 33, Series of 2009, and Ordinance No. 19, Series of 2013, as amended, the City set forth criteria for the administration and regulation of permitted classes of medical and retail marijuana businesses in the City in Articles 8 and 9 of Chapter 6 of the Rifle Municipal Code; and

WHEREAS, by Ballot Question C, Series of 2017 the electorate of the City approved allowing existing medical marijuana centers to be licensed and regulated for the sale of retail/recreational marijuana and marijuana products; and

WHEREAS, by Ballot Issue H, Series of 2017 the electorate of the City approved the levy of an additional sales tax of 5% to 15% on the sale of retail marijuana and retail marijuana products; and

WHEREAS, by Ordinance No. 28, Series of 2017 and Ordinance No. 3, Series of 2018, the Rifle City Council adopted and extended a temporary moratorium on the licensing and location of marijuana businesses in the City; and

WHEREAS, following consideration of the City’s procedures for the licensing and regulation of marijuana businesses, and the desires of the electorate to permit retail marijuana businesses, the Rifle City Council desires to amend Articles VIII and IX of Chapter 4, and Article VII of Chapter 6 of the Rifle Municipal Code as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Article VIII of Chapter 6 of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

ARTICLE VIII - Medical Marijuana

Sec. 6-8-10. - Definitions.

(a) Definitions relevant to this Article are incorporated herein as follows:

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000, adding §14 of Article 18 to the Colorado Constitution.

Colorado Medical Marijuana Code means Article 1143.3 of Title 4412, C.R.S.

Colorado Retail Marijuana Code means Article 12 of Title 44, C.R.S., and any rules or regulations promulgated thereunder, as amended.

Cultivation means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant.

Dual cultivation operation means a facility licensed to operate both a medical marijuana cultivation facility and retail marijuana cultivation facility on the same premises.

Dual store operation means a facility licensed to operate both as a medical marijuana center and retail marijuana store on the same premises.

Good cause (for the purpose of refusing or denying a license renewal under this Article) means:

- a. The licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article or the Colorado Medical Marijuana or Colorado Retail Marijuana Codes and any rule and regulation promulgated pursuant to this Article or the Colorado Medical Marijuana or Colorado Retail Marijuana Codes;
- b. The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, that were placed on its license in prior disciplinary proceedings, or that arose in the context of potential disciplinary proceedings; or
- c. The licensee's medical marijuana center or cultivation operation, has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the medical marijuana center or cultivation operation premises is located.

Evidence to support a finding of good cause may include:

- a. A continuing pattern of offenses against the public peace, as defined in Chapter 10 of this Code;
- b. A continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center or cultivation operation or in the immediate area surrounding the medical marijuana center or cultivation operation, or the immediate area surrounding the facility; or
- c. A continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center or cultivation operation.

Licensed cultivation facility means real property, the owner or occupant of which possesses one or more local licenses for the operation of an optional premises cultivation operation and/or a retail marijuana cultivation facility at that location.

Licensed store means real property, the owner or occupant of which possesses one or more local licenses for the operation of a medical marijuana center and/or a retail marijuana store at that location.

Licensee means a person licensed pursuant to this Article.

Local license means a license granted by the Local Licensing Authority pursuant to this Article and in accordance with State law.

Local Licensing Authority means the City Manager.

Marijuana shall have the same meaning as "usable form of marijuana" as set forth in Amendment 20, or as may be more fully defined in any applicable law or regulation.

Medical marijuana center shall have the same meaning as set forth at Section ~~44-11-104(13)~~~~42-43.3-104(8)~~, C.R.S.

Medical marijuana-infused products shall have the same meaning as set forth at Section ~~44-11-104(15)~~~~42-43.3-104(9)~~, C.R.S.

Medical marijuana-infused products manufacturer shall have the same meaning as set forth at Section ~~44-11-104(16)~~~~42-43.3-104(10)~~, C.R.S., for medical marijuana-infused products manufacturer.

Medical use shall have the same meaning as set forth in Article XVIII, §14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

Optional premises shall have the same meaning as set forth at Section ~~44-11-104(18)~~~~42-43.3-104(11)~~, C.R.S.

Optional premises cultivation operation or *cultivation operation* shall have the same meaning as set forth at Section ~~44-11-104(19)~~~~42-43.3-104(12)~~, C.R.S.

Patient has the meaning provided in Amendment 20, or as may be more fully defined in any applicable State law or regulation.

Primary caregiver has the meaning provided in Amendment 20, or as may be more fully defined in any applicable State law or regulation.

Retail marijuana cultivation facility means a facility 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 store means a facility licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

State license means a license granted by the Colorado State Licensing Authority pursuant to Section ~~44-11-304~~~~42-43.3-305~~, C.R.S.

- (b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 20 and Section ~~44-11-104~~~~42-43.3-104~~, C.R.S., are incorporated into this Article by reference.

Sec. 6-8-20. - Applicability of provisions.

In addition to any other rules or laws which may be applicable, this Article shall govern all licensing proceedings before the Marijuana Enforcement Division. Unless superseded by this Article, the provisions of Sections ~~44-11-101-12~~ ~~43-3-101~~ et seq., 25-1.5-106, 25-5-403, 16-2.5-121, 16-2.5-124.5, 24-72-202(6)(b) and 39-26-726, C.R.S., and 1 C.C.R. § 212, as may be amended, shall apply to medical marijuana licenses. A violation of any of the State regulations incorporated herein shall be deemed a violation of this Article subject to the penalty provisions of Section 6-8-180 of this Code.

Sec. 6-8-30. - Administration of medical marijuana.

- (a) The Local Licensing Authority shall be charged with the administration and enforcement of this Article.
- (b) The City Clerk shall assist the Local Licensing Authority by receiving all applications, coordinating with other City officers and departments when relevant, scheduling required public hearings and exercising his or her discretion in forwarding renewals, change of ownership and employment notices and other licensing-related requests to the Local Licensing Authority.
- (c) No person shall operate a medical marijuana center or optional premises cultivation operation within the City without a valid license issued in accordance with this Article. Under any and all circumstances in which State law requires communication to the City by the State licensing authority or any other State agency in regard to the licensing of marijuana establishments by the State, or in which State law requires any review or approval by the City of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Local Licensing authority or the City Clerk on his or her behalf.
- (d) This Article only permits the licensure of medical marijuana centers and optional premises cultivation operations, as further restricted in this Article, and infused products manufacturing facilities and marijuana transporter facilities, are prohibited from operating in any location in the City.
- (e) Under no circumstances shall the City receive or act upon any application for local licensing of a marijuana establishment in circumstances where the State has failed to act in accordance with Section 14 of Article XVIII of the Colorado Constitution, it being the intent of this Article that no medical marijuana center or optional premises cultivation operation may lawfully exist in the City absent the issuance of a State license and full regulatory oversight of the medical marijuana center or optional premises cultivation operation by the State as well as the City.

Sec. 6-8-40. - Application for license.

- (a) ~~A person seeking to obtain a license pursuant to this Article shall file an application with the City Clerk. The form of the application shall be provided by the Local Licensing Authority. Upon the availability of a license issued pursuant to this Article, the City Clerk shall publish notice of such availability and accept applications for such license for a period of sixty (60) days following publication. The form of application shall be provided by the Local Licensing Authority. No person shall have any interest in more than one (1)~~

new application submitted for any class of license. Applications deemed complete shall be entered into a public random drawing held within sixty (60) days following the sixty (60) day application period pursuant to rules and regulations of the Local Licensing Authority. Incomplete applications shall be deemed rejected, and the City Clerk shall provide written notice upon such determination. At such random drawing, the City Clerk shall select a number of applicants equal to the number of licenses available in each class. The City Clerk shall thereafter notify the selected applicants in writing within seven (7) days.

- (b) An application for a local license under this Article shall contain the following information:
- (1) The names, addresses, telephone numbers, dates of birth, and social security numbers of all owners of the medical marijuana center or cultivation operation, or, if the applicant is a business entity, the name of each natural person who owns any ownership interest in the entity;
 - (2) The street address, and unit number if applicable, of the proposed medical marijuana center or cultivation operation and a complete description, including sketch diagram, of the site for which the license is being obtained;
 - (3) If the applicant is not the owner of the proposed location of the medical marijuana center or cultivation operation, a statement from the owner of such property on a City-approved form authorizing the submission of the application;
 - (4) A completed set of the applicant's fingerprints taken by a local law enforcement agency or any third party approved by the Colorado Bureau of Investigation utilizing approved Live Scan equipment.
 - (5) A statement, to be initialed by the applicant, that the City accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana center or cultivation operation;
 - (6) A consent and acknowledgment that the City will conduct a background investigation of each owner;
 - (7) For an optional premises cultivation operation, the applicant must provide evidence that the structure has ~~an adequate electrical supply safely installed for the operation certified by a Colorado-licensed electrician,~~ proper filtered ventilation and odor-control measures installed so that no odors leave the premises, ~~irrigation and plumbing plan,~~ chemical storage and disposal plan, mitigation measures for airborne fungi and related pests; and
 - (8) Any additional information that the Local Licensing Authority reasonably determines to be necessary in connection with the investigation and review of the application.
- (c) ~~Applications deemed complete shall be processed by the Local Licensing Authority in order of receipt, and incomplete applications will be rejected. Applications selected pursuant to this Section shall be processed by the Local Licensing Authority. If no application is submitted within the sixty (60) day period prescribed in this Section, all subsequent applications shall be processed in the order of receipt. The processing of any application under this Section shall not confer to the applicant any right, claim, or interest in or to the grant of a license under this Article.~~ Applications selected pursuant to this Section shall be processed by the Local Licensing Authority. If no application is submitted within the sixty (60) day period prescribed in this Section, all subsequent applications shall be processed in the order of receipt. The processing of any application under this Section shall not confer to the applicant any right, claim, or interest in or to the grant of a license under this Article.

Sec. 6-8-50. - Application fee.

An applicant shall pay to the City a nonrefundable application fee to cover the administrative costs of producing and processing the application. The amount of the application fee is set forth in Appendix A to this Code and may be amended by resolution of the City Council. An applicant shall further pay for the required background investigation as set forth in Appendix A and the actual cost of being fingerprinted and any outside professional costs incurred by the City related to the application.

Sec. 6-8-60. – Location requirements and limitation of licenses.

No medical marijuana center or cultivation operation shall be established except in accordance with the following location requirements:

- (1) Each medical marijuana center shall be operated from a permanent and fixed location. No medical marijuana center shall be located in a movable, mobile, or transitory location. Nothing herein shall prevent the physical delivery of medical marijuana to a patient or the patient's primary caregiver at a location off of the premises of the licensee's medical marijuana center.
- (2) Except for those medical marijuana centers that held a valid local license as of October 1, 2018, A licensed store medical marijuana center may only be located south of the east-west Interstate 70 alignment and within either the Central Business District, Community Service Business District, the Tourist Commercial District, Light Industrial Zone District and Light Industrial PUD Zone Districts if general retail sales are allowed in the PUD or Industrial Zone District, and is prohibited in all other zone districts. Medical marijuana centers shall not be operated as a home occupation as set forth in Section 16-3-280 of this Code.
- (3) This Article in conjunction with Article IX of Chapter 6 only permits the licensure of three (3) licensed stores and seven (7) licensed cultivation facilities ~~No more than five (5) medical marijuana centers shall be licensed~~ in the City at any time.
- (4) ~~To preserve the economic diversity and character of the downtown and to prevent an over-concentration of medical marijuana centers, no more than four (4) medical marijuana centers may be located in the Central Business District. Medical marijuana centers shall be licensed and sited on a first-come, first-served basis.~~
- (5) ~~Except in the Central Business District, no medical marijuana center shall be located within five hundred (500) feet of another medical marijuana center. Distance shall be calculated using the standard established in the Colorado Medical Marijuana Code.~~
- (6) ~~No more than four (4) facilities shall be licensed in the City as an optional premises cultivation operation at any time.~~
- (4)(7) An optional premises cultivation operation may only be located in the Light Industrial Zone District or Industrial Zone District and is prohibited in all other zone districts. Prior to receiving a license pursuant to this Article, an optional premises cultivation operation must receive a conditional use permit from the City pursuant to Section 16-3-80 of this Code for the proposed location.
- (5)(8) No medical marijuana center ~~or cultivation operation~~ shall be located within one thousand (1,000) feet of a K-12 school, an alcohol or drug treatment facility, or a ~~residential~~ child care facility. Distance shall be calculated using the standard established

in the Colorado Medical Marijuana Code. The provisions of this Paragraph shall not affect the renewal or re-issuance of a license once granted.

Sec. 6-8-70. - Denial of license.

- (a) The Local Licensing Authority ~~shall~~ may deny an application for a license under this Article if the Local Licensing Authority determines that:
- (1) Information contained in the application or supplemental information requested from the applicant is incomplete or found to be false in any material respect; or
 - (2) The application fails to meet any of the standards set forth in Section 6-8-60 above.
 - (3) The Local Licensing Authority may deny an application if the applicant or any owner of an applicant business has previously been convicted of a drug felony violation within the past ten (10) years or any other felony violation within the past five (5) years.
 - (4) If the applicant or any owner of an applicant business has in the immediately preceding twelve (12) months had a medical marijuana license or retail marijuana establishment license revoked or suspended by the State or by the local licensing authority in this or any other jurisdiction.
 - (5) If any person named on the application is not of good moral character as defined by the Colorado Medical Marijuana Code or considering the factors of Section 24-5-101, C.R.S.
- (b) If an application is denied, the application fee shall not be refunded.

Sec. 6-8-80. - Decision by Local Licensing Authority.

- (a) The Local Licensing Authority shall approve, deny, or conditionally approve an application within forty-five (45) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional thirty (30) days if necessary for the Local Licensing Authority to complete the review of the application or other such time to complete the background investigation; provided, however, no local license shall be issued ~~until the~~ except in conjunction with a State license is issued.
- (b) If an applicant is denied, the Local Licensing Authority shall clearly set forth in writing the grounds for denial.
- (c) The Local Licensing Authority shall have the authority to impose such terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this Article and applicable law. In the event an application is conditionally approved, the Local Licensing Authority shall clearly set forth in writing the conditions of approval.

Sec. 6-8-90. - Notice of decision.

The Local Licensing Authority shall notify the applicant of the decision on the application by mailing a copy of the Local Licensing Authority's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

Sec. 6-8-100. - Appeal of license decision.

- (a) An applicant has the right to appeal the Local Licensing Authority's denial or conditional approval of an application to a hearing officer ~~the City Council~~ by filing a written request with the City Clerk within twenty (20) days of the date of the notice of the decision described in Section 6-8-90 above.
- (b) The applicant shall be provided with not less than ten (10) days' prior written notice of an appeal hearing to be held by the hearing officer ~~City Council~~ pursuant to Chapter 1, Article VII of this Code.
- (c) The burden of proof in an appeal filed under this Section shall be on the applicant.
- (d) Any decision made ~~by the City Council~~ pursuant to this Section shall be a final decision and may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision shall be a waiver of the applicant's right to contest the denial or conditional approval of the application.

Sec. 6-8-110. - License.

- (a) A license shall contain the following information:
 - (1) The name of the licensee;
 - (2) The valid dates of the license;
 - (3) The address at which the licensee is authorized to operate the medical marijuana center or cultivation operation;
 - (4) Any special conditions of approval imposed upon the license by the Local Licensing Authority, pursuant to Section 6-8-80 above; and
 - (5) The date of the expiration of the license.
- (b) A license must be signed by the Local Licensing Authority to be valid.
- (c) A license is nonassignable, and any attempt to assign a license voids the license.
- (d) A license shall be continuously posted in a conspicuous location at the medical marijuana center or optional premises cultivation operation.
- (e) The change of the location of any license or any modification or expansion of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code and any regulations adopted pursuant thereto, and the Local Licensing Authority shall administer applications to change location or modify or expand the premises in the same manner as the State licensing authority administers changes of location and modification or expansion of premises for State licenses. A license may only be transferred to a different location or a facility modified or expanded following the payment of the change in location or modification/expansion of premises fee set forth in Appendix A, submitting the application materials and complying with the requirements relevant to location and structures contained in this Article, and approval of the change of location or facility modification or expansion by the Local Licensing Authority following the application process set forth in this Article.
- (f) The transfer of any interest in a medical marijuana center or optional premises cultivation operation must be reported to the Local Licensing Authority prior to the change in ownership by submitting an application on forms approved by the City and payment of the change of ownership fee or change of corporate structure fee set forth in Appendix A.

Transfer of ownership of any license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code.

Sec. 6-8-120. - Duration of license; renewal.

- (a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section. If a license does not become operational within the one (1) year period, it shall expire and not be subject to renewal.
- (b) An application for the renewal of an existing operational license shall be made to the Local Licensing Authority not less than forty-five (45) days prior to the date of expiration.
- (c) The provisions of Sections 6-8-40 through 6-8-100, inclusive, shall apply to the processing of an application to renew a license unless specifically waived by the Local Licensing Authority based upon no changed circumstances. The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application, including any appeal of the Local Licensing Authority's decision to the City Council. Any renewal of a license shall be governed by the standards and procedures set forth in this Article and the Colorado Medical Marijuana Code.
- (d) The applicant shall, at the time of an application to renew a license, not be delinquent on any applicable City fees or taxes.
- (e) At the time of the filing of an application for the renewal of an existing license, the applicant shall pay a renewal fee in an amount set forth in Appendix A, which may be amended by resolution of the City Council.
- (f) ~~If an applicant holding a valid license in the Central Business District wishing to renew the license submits a timely renewal application, that applicant shall receive first review and approval priority regardless of other submitted applications for that district under the limitations set forth in Paragraph 6-8-60(3). If the applicant allows the license to expire before submitting a renewal application or the renewal application is denied, that license shall be open to new applicants on a first come, first served basis.~~
- ~~(g) The Local Licensing Authority may refuse to renew a license for good cause.~~

Sec. 6-8-130. - Duties of licensee.

It is the duty and obligation of each licensee to do the following:

- (1) Comply with all of the terms and conditions of the license and any special conditions on the license imposed by the Local Licensing Authority, pursuant to Section 6-8-80.
- (2) Comply with all of the requirements of this Article.
- (3) Comply with all other applicable City ordinances.
- (4) Comply with all State laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment found at 5 C.C.R. 1006-2, all as amended from time to time.
- (5) Permit inspection of its records and operation by the Local Licensing Authority or other agent of the City for the purpose of determining the licensee's compliance with the terms and conditions of the license and this Article; provided, however, that confidentiality of patient records shall be maintained pursuant to State law. In the event

the City incurs costs in the inspection, clean-up, or any other requirements to remove marijuana of any medical marijuana center or optional premises cultivation operation facility, the licensee shall reimburse the City all actual costs incurred by the City for such inspection and clean-up.

Sec. 6-8-140. - Suspension or revocation of license.

- (a) A license issued pursuant to this Article may be suspended or revoked by the Local Licensing Authority for the following reasons:
 - (1) Fraud, misrepresentation, or a false statement of material fact contained in the license application;
 - (2) A violation of any City, State, or federal law or regulation, other than a federal law or regulation concerning the possession, sale, or distribution of marijuana that conflicts with Amendment 20;
 - (3) A violation of any of the terms and conditions of the license, including any special conditions of approval imposed upon the license by the Local Licensing Authority pursuant to Section 6-8-80;
 - (4) A violation of any of the provisions of this Article;
 - (5) Operations have ceased at the medical marijuana center or cultivation operation for more than ~~thirty (30)~~ ninety (90) days, including during a change of ownership of the medical marijuana center or cultivation operation; or
 - (6) Ownership of the medical marijuana center or cultivation operation has been transferred without the new owner obtaining a license pursuant to this Article.
- (b) In connection with the suspension of a license, the Local Licensing Authority may impose conditions.
- (c) The Local Licensing Authority shall notify the licensee of the decision to suspend or revoke the license within three (3) business days of rendering the decision. Notice shall be given pursuant to the procedure established in Section 6-8-90. The licensee has the right to appeal the suspension or revocation of a license to the City Council by filing a written request with the Local Licensing Authority within twenty (20) days of the date of the notice of decision issued by the Local Licensing Authority. The process for appeal of a suspension or revocation shall be as set forth in Section 6-8-100 of this Article.
- (d) No suspension or revocation shall be final until the licensee has been given the opportunity for a hearing to address the suspension or revocation. In deciding whether a license should be suspended or revoked in accordance with this Section, and in deciding what conditions to impose in the event of a suspension, if any, the following shall be considered:
 - (1) The nature and seriousness of the violation;
 - (2) Corrective action, if any, taken by the licensee;
 - (3) Prior violations, if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
 - (4) The likelihood of recurrence;
 - (5) All circumstances surrounding the violation;
 - (6) Whether the violation was willful;
 - (7) The length of time the license has been held by the licensee;
 - (8) The number of violations by the licensee within the applicable twelve-month period;

- (9) Previous sanctions, if any, imposed against the licensee; and
 - (10) Any other factor making the situation, with respect to the licensee or the licensed premises, unique or the violation of greater concern.
- (e) Whenever a decision of the Local Licensing Authority suspending a license becomes final, whether by failure of the licensee to appeal the decision, stipulation between the City and the licensee that such decision is final, or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition 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 Local Licensing Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied and finds:
- (1) That the public welfare and morals will not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purpose; and
 - (2) That the books and records of the licensee are kept in such a manner that the loss of sales or other impacts that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
 - (3) That the licensee has not had his or her license suspended or revoked by the Local Licensing Authority, nor had any suspension stayed by payment of a fine to the Local Licensing Authority, during the two (2) years immediately preceding the date of the complaint or request which resulted in a final decision to suspend the license.
- (f) The fine imposed pursuant to Subsection (e) shall not be less than five hundred dollars (\$500.00) nor greater than one hundred thousand dollars (\$100,000.00) and the Local Licensing Authority may consider, among other things, licensee's estimated gross revenues from sales or other impacts during the period of the proposed suspension in determining the amount of the fine.
- (g) The Local Licensing Authority may, in its sole discretion, enter into a stipulation and order with a licensee imposing a fine in lieu of suspension of a license contemporaneous with entering into a stipulation and order with a licensee containing such findings as are required in Subsection (e).
- (h) Payment of any fine accepted in lieu of allowing a license suspension to become operable shall be in the form of cash, certified check or cashier's check. Said funds shall be deposited into the general fund of the City of Rifle. Upon receipt of the fine, the Local Licensing Authority shall enter an order permanently staying the operation of the suspension.
- (i) If the Local Licensing Authority does not make the findings required under Subsection (e) and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date of suspension set by the Local Licensing Authority. Notwithstanding the foregoing, the Local Licensing Authority may grant such stays of the suspension proceedings as are necessary for it to complete its investigation and make the findings required under Subsection (e).

Sec. 6-8-150. - Operation of medical marijuana center.

- (a) No marijuana may be sold, given away, or transferred at a medical marijuana center, except to patients and to primary caregivers or other state licensed medical marijuana

centers, optional premises cultivation facilities, or medical marijuana-infused products manufacturer pursuant to 44-11-402(3), C.R.S. and rules promulgated thereunder.

- (b) A medical marijuana center may open no earlier than 8:00 a.m. and shall close no later than 7:00 p.m. the same day; provided, however, if the medical marijuana center is located in a Light Industrial Zone District, Light Industrial PUD Zone District or Industrial Zone District, it may close no later than 10:00 p.m. A medical marijuana center may be open seven (7) days a week.
- (c) All signage for a medical marijuana center shall comply with the requirements of Chapter 16, Article VIII of this Code. ~~No signage associated with medical marijuana centers shall use the words "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical."~~ In addition, no sign shall contain a graphic or image of any portion of a marijuana plant.
- (d) The growing, cultivating, or processing of marijuana on or within the premises of a medical marijuana center is prohibited.
- (e) The sale or consumption of an alcoholic beverage within a medical marijuana center is prohibited.
- (f) No person under the age of eighteen (18) shall be allowed in any portion of a medical marijuana center.
- (g) Each licensee shall maintain an accurate and complete record of all marijuana sold or dispensed at the medical marijuana center with the following information, which shall be made available to the City upon demand:
 - (1) The quantity of medical marijuana dispensed in each transaction;
 - (2) The date and time the marijuana was sold or dispensed; and
 - (3) The total amount paid per transaction for all goods and services provided.
- (h) A licensee shall provide adequate security on the premises of a medical marijuana center, including but not limited to the following:
 - (1) A locking safe or secure vault permanently affixed to or built into the premises that is suitable for storage of all of the saleable inventory of marijuana;
 - (2) Security surveillance cameras with back-up power operating at all times installed to monitor the main entrance to discourage and to facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - (3) Burglar alarm systems professionally monitored and maintained in good working condition.
- (i) The medical marijuana center premises shall be adequately ventilated so that adjacent properties are not impacted by odors.
- (j) No vending machines, drive-ups, or unsupervised sales shall be permitted on the premises.
- (k) No onsite consumption of marijuana shall be permitted on the licensed premises.
- (l) Only merchandise related to the medical marijuana center and the provision of care to patients is allowed to be sold in a medical marijuana center.

Sec. 6-8-160. - Operation of medical marijuana optional premises cultivation operation.

- (a) No retail sale of marijuana may occur at a medical marijuana optional premises cultivation operation.

- (b) Any signage for a medical marijuana optional premises cultivation operation shall comply with the requirements of Chapter 16, Article VIII of this Code. ~~No signage shall use the words "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical."~~ In addition, no sign shall contain a graphic or image of any portion of a marijuana plant.
- (c) A medical marijuana optional premises cultivation operation must occur indoors and be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at any adjoining business, parcel, or tract of real property. Violation of this Subsection by any licensed cultivation facility ~~medical marijuana optional premises cultivation operation or facility licensed as a dual operation~~ shall be punishable utilizing the administrative citation process set forth in Section 16-1-170 with the following penalties assessed:
- (1) A fine of one thousand five hundred dollars (\$1,500.00) for the first offense within a twelve-month period and City approval of a corrective action plan to undertake steps to abate persistent odors;
 - (2) A fine of two thousand dollars (\$2,000.00) for the second offense within a twelve-month period; and
 - (3) Any licensed cultivation facility licensed under either this Section or Article IX ~~dual operation licensed under the provisions of Section 6-9-10 et seq.~~, that violates this Subsection following a second offense within a twelve-month period shall be subject to suspension or revocation as provided in Section 6-8-140.
- (d) A medical marijuana optional premises cultivation operation shall be required to have waste, chemical, and bioproduct storage and disposal measures as determined reasonably necessary by the Local Licensing Authority.

Sec. 6-8-170. - Taxes.

Each licensee shall comply in full with the payment of City sales tax pursuant to Chapter 4 of this Code.

Sec. 6-8-180. - Penalties; injunctive relief.

- (a) It is a Class A misdemeanor offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Chapter 1, Article IV of this Code.
- (b) The operation of a medical marijuana center, optional premises cultivation operation, or infused products manufacturer without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction. In any case in which the City prevails in a civil action initiated pursuant to this Section, the City may recover its reasonable attorney fees plus costs of the proceeding.
- (c) The remedies provided in this Article VIII are in addition to any other remedy provided by applicable law.

Sec. 6-8-190. - Rules and regulations.

The Local Licensing Authority shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this Article.

Sec. 6-8-200. - Indemnification of City.

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana center or optional premises cultivation operation facility that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and provide defense for and defend against any such liability, claims, or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Local Licensing Authority may require a licensee to execute a written instrument confirming the provisions of this Section.

Section 3. Article IX of Chapter 6 of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

ARTICLE IX - Retail Marijuana ~~Cultivation Facilities~~

Sec. 6-9-10. - Purpose and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution, also commonly known as Amendment 64, authorizes a system of State licensing for businesses engaging in the cultivation, testing, manufacturing, and sale of retail marijuana, collectively referred to as marijuana establishments by the Constitution. Subsection 16(5)(f) of Article XVIII allows localities, within their respective jurisdictions: to prohibit State licensing of marijuana establishments; to regulate the time, place, and manner in which marijuana establishments may operate; and to limit the total number of marijuana establishments. The authority of localities to prohibit or regulate marijuana establishments within their respective jurisdictions, including the authority to engage in local licensing of marijuana establishments, is also reflected in various provisions of the Colorado Retail Marijuana Code, Article ~~1243-4~~ of Title ~~4412~~, C.R.S. The purpose of this Article is to exercise the authority of the City to prohibit marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores in the City and allow State-licensed retail marijuana cultivation facilities to exist in the City in accordance with applicable State laws and regulations, as well as the additional local licensing requirements and other restrictions set forth herein.

Sec. 6-9-20. - Definitions.

(a) For purposes of this Article, the following terms shall have the following meanings:

Amendment 64 means a voter-initiated amendment to the Colorado Constitution, adopted in November 2012, adding Section 16 of Article XVIII to the Colorado Constitution.

Colorado Medical Marijuana Code means Article ~~1243.3~~ of Title ~~4412~~, C.R.S., and any rules or regulations promulgated thereunder, as amended.

Colorado Retail Marijuana Code means Article 43.4 of Title 12, C.R.S., and any rules or regulations promulgated thereunder, as amended.

Dual cultivation operation means a facility licensed to operate both a medical marijuana cultivation facility and retail marijuana cultivation facility on the same premises.

Dual store operation means a facility licensed to operate both as a medical marijuana center and retail marijuana store on the same premises.

Good cause (for the purpose of refusing or denying a license renewal under this Article) means:

- a. The licensee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this Article or the Colorado Retail Marijuana or Colorado Medical Marijuana Codes and any rule and regulation promulgated pursuant to this Article or the Colorado Retail Marijuana or Colorado Medical Marijuana Codes;
- b. The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, that were placed on its license in prior disciplinary proceedings, or that arose in the context of potential disciplinary proceedings; or
- c. The licensee's retail marijuana cultivation facility has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the retail marijuana cultivation facility is located.
- d. Evidence to support a finding of good cause may include:
 - i. A continuing pattern of offenses against the public peace, as defined in Chapter 10 of this Code;
 - ii. A continuing pattern of drug-related criminal conduct within the premises of the retail marijuana cultivation facility or in the immediate area surrounding the facility; or
 - iii. A continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana cultivation facility.

Licensed cultivation facility means real property, the owner or occupant of which possesses one or more local licenses for the operation of an optional premises cultivation operation and/or a retail marijuana cultivation facility at that location.

Licensed store means real property, the owner or occupant of which possesses one or more local licenses for the operation of a medical marijuana center and/or a retail marijuana store at that location.

Licensee means a person licensed pursuant to this Article.

Local license means a license granted by the Local Licensing Authority pursuant to this Article and in accordance with State law.

Local Licensing Authority means the City Manager.

Marijuana means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound,

manufacture, salt derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate, but excluding industrial hemp, fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana club means a place not used for residential purposes where individuals gather to consume or grow marijuana, regardless of whether such place calls itself private or public or charges an admission or membership fee.

Marijuana product manufacturing facility means a facility 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.

Marijuana testing facility means a facility license to analyze and certify the safety and potency of marijuana.

Retail marijuana cultivation facility means a facility 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 store means a facility licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

State license means a license granted by the Colorado State Licensing Authority pursuant to Section 12-43.4-304, C.R.S.

- (b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 64 and Section 12-43.3-103, C.R.S., and any implementing regulations are incorporated into this Article by reference.

Sec. 6-9-30. – Administration of Retail Marijuana. ~~Retail marijuana cultivation facility license required; all other marijuana establishments prohibited.~~

- (a) No person shall operate a retail marijuana cultivation facility or retail marijuana store within the City without a valid license issued in accordance with this Article. Under any and all circumstances in which State law requires communication to the City by the State licensing authority or any other State agency in regard to the licensing of marijuana establishments by the State, or in which State law requires any review or approval by the City of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Local Licensing Authority or the City Clerk on his or her behalf.
- (b) This Article in conjunction with Article VIII of Chapter 6 only permits the licensure of three (3) licensed stores and seven (7) licensed cultivation facilities ~~four (4) retail marijuana cultivation facilities~~, and all other marijuana establishments, specifically marijuana product manufacturing facilities, marijuana testing facilities, ~~retail marijuana stores~~, marijuana transporter facilities (except as provided for at Section 44-12-403(7), C.R.S.), and marijuana clubs, are prohibited from operating in any location in the City.
- (c) Under no circumstances shall the City receive or act upon any application for local licensing of a marijuana establishment in circumstances where the State has failed to act in

accordance with Section 16 of Article XVIII of the Colorado Constitution, it being the intent of this Article that no retail marijuana cultivation facility or retail marijuana store may lawfully exist in the City absent the issuance of a State license and full regulatory oversight of the retail marijuana cultivation facility or retail marijuana store by the State as well as the City.

- (d) It is unlawful for any person to operate, cause to be operated, or permit to be operated in the City a marijuana product manufacturing facility, marijuana testing facility, ~~retail marijuana store~~, or marijuana club, ~~and marijuana product manufacturing facilities, marijuana testing facilities, retail marijuana stores, and marijuana clubs~~ all of which are hereby prohibited at any location in the City; provided, however, that nothing in this Subsection shall affect or apply to any business licensed under the Colorado Medical Marijuana Code, Article ~~1243.3~~ of Title ~~4412~~, C.R.S., and Article VIII of this Chapter.

Sec. 6-9-40. - Relationship to Colorado Retail Marijuana Code; other laws.

Except as otherwise specifically provided herein, this Article incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this Article and the provisions of the Colorado Retail Marijuana Code or any other applicable State or local law, the more restrictive provision shall control. To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing retail marijuana, the additional or stricter regulations shall control any retail marijuana cultivation facility or retail marijuana store in the City. Compliance with any applicable State law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable State law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

Sec. 6-9-50. - Unlawful acts.

It shall be unlawful for any person to:

- (1) Operate any retail marijuana establishment in the City except for a retail marijuana cultivation facility or a retail marijuana store with a license duly issued by the State licensing authority under the Colorado Retail Marijuana Code and in compliance with any and all applicable State laws;
- (2) Operate any retail marijuana establishment in the City except for a retail marijuana cultivation facility or a retail marijuana store with a license duly issued by the Local Licensing Authority under this Article and in compliance with any and all applicable City laws;
- (3) Engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, or consumption of marijuana other than those forms that are expressly contemplated by Section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code or the Colorado Medical Marijuana Code; or
- (4) Sell marijuana or marijuana products from marijuana plants possessed, grown, processed or transported for personal use pursuant to Subsection 16(3) of Article XVIII of the Colorado Constitution.

Sec. 6-9-60. - Limitation on retail marijuana cultivation facilities and retail marijuana stores, conversion of dual operation with existing medical marijuana centers cultivation operations, dual operation.

- (a) As stated in Section 6-9-30 and in conjunction with Article VIII of Chapter 6, there shall be no more than three (3) licensed stores and seven (7) licensed marijuana facilities in the City at any time.
- (b) Any valid medical marijuana center license held on October 1, 2018 may, at the option of the licensee be converted to a retail marijuana store license subject to the terms and conditions of this Article, including but not limited to any location requirements for new licenses. If an existing medical marijuana center licensee exercises this option and opts to have dual operation at the new permitted location, the transfer of license fee to change location of a medical marijuana center only will be waived.
- (c) A dual store operation or a dual cultivation operation may operate with a license for each such operation and in such a manner as to separate its medical and retail operations as prescribed by the Colorado Retail Marijuana Code.

~~No more than four (4) facilities shall be licensed in the City as a retail marijuana cultivation facility. Because only the existing medical marijuana cultivation operations licensed within the City when Amendment 64 passed were eligible to operate a retail marijuana cultivation facility, a person must hold a medical marijuana cultivation operation license pursuant to the Colorado Medical Marijuana Code to receive a retail marijuana cultivation facility license and must operate both licenses on the same premises ("dual operation"), provided they meet the requirements of the Colorado Retail Marijuana Code and this Article.~~

Sec. 6-9-70. - Application for license.

- (a) ~~A person seeking to obtain a license pursuant to this Article shall file an application with the City Clerk. The form of the application shall be provided by the Local Licensing Authority. Upon the availability of a license issued pursuant to this Article, the City Clerk shall publish notice of such availability and accept applications for such license for a period of sixty (60) days following publication. The form of application shall be provided by the Local Licensing Authority. No person shall have any interest in more than one (1) application submitted for any class of license. Applications deemed complete shall be entered into a public random drawing held within sixty (60) days following the sixty (60) day application period pursuant to rules and regulations of the Local Licensing Authority. Incomplete applications shall be deemed rejected, and the City Clerk shall provide written notice upon such determination. At such random drawing, the City Clerk shall select a number of applicants equal to the number of licenses available in each class. The City Clerk shall thereafter notify the selected applicants in writing within seven (7) days.~~
- (b) An application for a local license under this Article shall contain the following information:
 - (1) The name, address, telephone number, date of birth, and social security number of all owners of the retail marijuana cultivation facility or, if the applicant is a business entity, the names of each natural person who owns any ownership interest in the entity;

- (2) The street address, and unit number if applicable, of the proposed retail marijuana cultivation facility and a complete description, including sketch diagram, of the site for which the license is being obtained;
 - (3) If the applicant is not the owner of the proposed location of the retail marijuana cultivation facility, a statement from the owner of such property on a City-approved form authorizing the submission of the application;
 - (4) A completed set of the applicant's fingerprints taken by a local law enforcement agency or any third party approved by the Colorado Bureau of Investigation utilizing approved Live Scan equipment.
 - (5) A statement to be initialed by the applicant that the City accepts no legal liability in connection with the approval and subsequent operation of the retail marijuana cultivation facility;
 - (6) A consent and acknowledgement that the City will conduct a background investigation of each owner;
 - (7) For a retail marijuana cultivation facility, the applicant must provide evidence that the structure has ~~an adequate electrical supply safely installed for the operation certified by a Colorado licensed electrician,~~ proper filtered ventilation and odor control measures installed so that no odors leave the ~~premises property,~~ irrigation and plumbing plan, chemical storage and disposal plan, mitigation measures for airborne fungi and related pests; and
 - (8) Any additional information that the Local Licensing Authority reasonably determines to be necessary in connection with the investigation and review of the application.
- (c) ~~Applications deemed complete shall be processed by the Local Licensing Authority in order of receipt, and incomplete applications will be rejected.~~ Applications selected pursuant to this Section shall be processed by the Local Licensing Authority. If no application is submitted within the sixty (60) day period prescribed in this Section, all subsequent applications shall be processed in the order of receipt. The processing of any application under this Section shall not confer to the applicant any right, claim, or interest in or to the grant of a license under this Article. Upon the grant of all licenses available, the remaining applications shall be deemed void.

Sec. 6-9-80. - Application fee.

An applicant shall pay to the City a nonrefundable application fee to cover the administrative costs of producing and processing the application. ~~The amount of the~~ application fees are set forth in Appendix A and may be amended by resolution of the City Council. An applicant shall further pay for the required background investigation as set forth in Appendix A and the actual cost of being fingerprinted and any outside professional costs incurred by the City related to the application.

Sec. 6-9-90. - Location requirements.

No retail marijuana store or retail marijuana cultivation facility shall be established except in accordance with the following location requirements:

- (1) Each retail marijuana store shall be operated from a permanent and fixed location. No retail marijuana store shall be located in a movable, mobile, or transitory location.
- (2) A retail marijuana store may only be located south of the east-west Interstate 70 alignment and within either the Light Industrial Zone District, Light Industrial PUD Zone Districts if general retail sales are allowed in the PUD or Industrial Zone District and is prohibited in all other zone districts. Retail marijuana stores shall not be operated as a home occupation as set forth in Section 16-3-280 of this Code.
- (3) A retail marijuana cultivation facility may only be located in the Light Industrial Zone District, including the Light Industrial PUD, or Industrial Zone District, and they are prohibited in all other zone districts, ~~including the Light Industrial PUD.~~ Prior to receiving a license pursuant to this Article, a retail marijuana cultivation facility must receive a conditional use permit from the City pursuant to Section 16-3-80 of this Code for the proposed location; provided, however, that existing medical marijuana cultivation operations licensed pursuant to Article VIII of this Chapter do not need to obtain another conditional use permit for a license issued under this Article for the same location. In addition, prior to receiving approval for expansion of a licensed retail marijuana cultivation facility under this Article, a licensee must receive a conditional use permit from the City pursuant to Section 16-3-80 for the proposed expansion.
- (4) No retail marijuana store shall be located within one thousand (1,000) feet of a K-12 school, an alcohol or drug treatment facility, or a child care facility. Distance shall be calculated using the standard established in the Colorado Medical Marijuana Code. The provisions of this Paragraph shall not affect the renewal or re-issuance of a license once granted.

Sec. 6-9-100. - Denial of license.

- (a) The Local Licensing Authority ~~shall~~ may deny an application for a license under this Article if the Local Licensing Authority determines that:
 - (1) Information contained in the application or supplemental information requested from the applicant is found to be false in any material respect.
 - (2) The application fails to meet the location requirements set forth in Section 6-9-90 above.
 - (3) If the applicant or any owner of an applicant business has previously been convicted of a felony that is deemed a crime of violence or has completed any portion of a felony sentence within the past five (5) years.
 - (4) If the applicant or any owner of an applicant business has in the immediately preceding twelve (12) months had a medical marijuana license or retail marijuana establishment license revoked or suspended by the State or by the local licensing authority in this or any other jurisdiction.
 - (5) If any person named on the application is not of good moral character as defined by the Colorado Retail Marijuana Code or considering the factors of Section 24-5-101, C.R.S.
- (b) If an application is denied, the application fee shall not be refunded.

Sec. 6-9-110. - Decision by Local Licensing Authority.

- (a) The Local Licensing Authority shall approve, deny, or conditionally approve an application within forty-five (45) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional thirty (30) days if necessary for the Local Licensing Authority to complete the review of the application or other such time to complete the background investigation; provided, however, no local license shall be issued until the State license is issued.
- (b) If an application is denied, the Local Licensing Authority shall clearly set forth in writing the grounds for denial.
- (c) The Local Licensing Authority shall have the authority to impose such terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this Article and applicable law. In the event an application is conditionally approved, the Local Licensing Authority shall clearly set forth in writing the conditions of approval.

Sec. 6-9-120. - Notice of decision.

The Local Licensing Authority shall notify the applicant of the decision on the application by mailing a copy of the Local Licensing Authority's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

Sec. 6-9-130. - Appeal of license decision.

- (a) An applicant has the right to appeal the Local Licensing Authority's denial or conditional approval of an application to a hearing officer ~~the City Council~~ by filing a written request with the City Clerk within twenty (20) days of the date of the notice of the decision described in Section 6-8-120 above.
- (b) The applicant shall be provided with not less than ten (10) days' prior written notice of an appeal hearing to be held by the hearing officer ~~City Council~~ pursuant to Chapter 1, Article VII of this Code.
- (c) The burden of proof in an appeal filed under this Section shall be on the applicant.
- (d) Any decision made ~~by the City Council~~ pursuant to this Section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision shall be a waiver of the applicant's right to contest the denial or conditional approval of the application.

Sec. 6-9-140. - License.

- (a) A license shall contain the following information:
 - (1) The name of the licensee;
 - (2) The valid dates of the license;
 - (3) The address at which the licensee is authorized to operate the retail marijuana cultivation facility or retail marijuana store;

- (4) Any special conditions of approval imposed upon the license by the Local Licensing Authority pursuant to Section 6-9-110; and
- (5) The date of the expiration of the license.
- (b) A license must be signed by the Local Licensing Authority to be valid.
- (c) A license is nonassignable, and any attempt to assign a license voids the license.
- (d) A license shall be continuously posted in a conspicuous location at the retail marijuana cultivation facility or retail marijuana store.
- (e) The change of the location of any license or any modification or expansion of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the Local Licensing Authority shall administer applications to change location or modify or expand the premises in the same manner as the State licensing authority administers changes of location and modification or expansion of premises for State licenses. A license may only be transferred to a different location or a facility modified or expanded following the payment of the change of location fee or modification/expansion of premises fee set forth in Appendix A, submitting the application materials and complying with the requirements relevant to location and structures contained in this Article, and approval of the change of location or facility modification or expansion by the Local Licensing Authority following the application process set forth in this Article.
- (f) The transfer of any interest in a retail marijuana cultivation facility or retail marijuana store must be reported to the Local Licensing Authority prior to the change in ownership by submitting an application on forms approved by the City and payment of the change of ownership fee or change of corporate structure fee set forth in Appendix A. Transfer of ownership of any license issued pursuant to this Article shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code.

Sec. 6-9-150. - Duration of license; renewal.

- (a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section. There shall be no right to renewal of a license issued pursuant to this Article not in use for the retail sale or cultivation of marijuana at the time of expiration.
- (b) An application for the renewal of an existing license shall be made to the Local Licensing Authority not less than forty-five (45) days prior to the date of expiration.
- (c) The provisions of Sections 6-9-70 through 6-9-130 above, inclusive, shall apply to the processing of an application to renew a license unless specifically waived by the Local Licensing Authority based upon no changed circumstances. The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application, including any appeal of the Local Licensing Authority's decision to the City Council. Any renewal of a license shall be governed by the standards and procedures set forth in this Article and the Colorado Retail Marijuana Code.
- (d) The applicant shall, at the time of an application to renew a license, not be delinquent on any applicable City's fees or taxes.

- (e) At the time of the filing of an application for the renewal of an existing license, the applicant shall pay a renewal fee in an amount set forth in Appendix A which may be amended by resolution of the City Council.
- (f) The Local Licensing Authority may refuse to renew a license for good cause.

Sec. 6-9-160. - Duties of licensee.

It is the duty and obligation of each licensee to do the following:

- (1) Comply with all of the terms and conditions of the license and any special conditions on the license imposed by the Local Licensing Authority, pursuant to Section 6-9-110 of this Article.
- (2) Comply with all of the requirements of this Article;
- (3) Comply with all other applicable City ordinances;
- (4) Comply with all State laws pertaining to the use of retail marijuana, including but not limited to Amendment 64, the Colorado Retail Marijuana Code, Article 1243.4 of Title 4412, C.R.S., and implementing administrative regulations, all as amended from time to time.
- (5) Permit inspection of its records and operation by the Local Licensing Authority or other agent of the City for the purpose of determining the licensee's compliance with the terms and conditions of the license and this Article. In the event the City incurs costs in the inspection, clean-up, or any other requirements to remove marijuana of any retail marijuana cultivation facility, the licensee shall reimburse the City all actual costs incurred by the City for such inspection and clean-up.

Sec. 6-9-170. - Suspension or revocation of license.

- (a) A license issued pursuant to this Article may be suspended or revoked by the Local Licensing Authority for the following reasons:
 - (1) Fraud, misrepresentation, or a false statement of material fact contained in the license application;
 - (2) A violation of any City, State, or federal law or regulation, other than a federal law or regulation concerning the possession, sale, or distribution of marijuana that conflicts with Amendment 64;
 - (3) A violation of any of the terms and conditions of the license, including any special conditions of approval imposed upon the license by the Local Licensing Authority pursuant to Section 6-9-110;
 - (4) A violation of any of the provisions of this Article;
 - (5) Operations have ceased at the retail marijuana cultivation facility or retail marijuana store for more than ~~thirty (30)~~ ninety (90) days, including during a change of ownership of the dispensary or cultivation operation; or
 - (6) Ownership of the retail marijuana cultivation facility or retail marijuana store has been transferred without the new owner obtaining a license pursuant to this Article.
- (b) In connection with the suspension of a license, the Local Licensing Authority may impose reasonable conditions.

- (c) The Local Licensing Authority shall notify the licensee of the decision to suspend or revoke the license within three (3) business days of rendering the decision. Notice shall be given pursuant to the procedure established in Section 6-9-120 of this Article. The licensee has the right to appeal the Local Licensing Authority's suspension or revocation to the City Council by filing a written request with the Local Licensing Authority within twenty (20) days of the date of the notice of decision issued by the Local Licensing Authority. The process for appeal of a suspension or revocation shall be as set forth in Section 6-9-130 of this Article.
- (d) No suspension or revocation shall be final until the licensee has been given the opportunity for a hearing to address the suspension or revocation. In deciding whether a license should be suspended or revoked in accordance with this Section, and in deciding what conditions to impose in the event of a suspension, if any, the following shall be considered:
 - (1) The nature and seriousness of the violation;
 - (2) Corrective action, if any, taken by the licensee;
 - (3) Prior violations, if any, at the licensed premises by the licensee and the effectiveness of prior corrective action, if any;
 - (4) The likelihood of recurrence;
 - (5) All circumstances surrounding the violation;
 - (6) Whether the violation was willful;
 - (7) The length of time the license has been held by the licensee;
 - (8) The number of violations by the licensee within the applicable twelve-month period;
 - (9) Previous sanctions, if any, imposed against the licensee; and
 - (10) Any other factor making the situation, with respect to the licensee or the licensed premises, unique or the violation of greater concern.
- (e) Whenever a decision of the Local Licensing Authority suspending a license becomes final, whether by failure of the licensee to appeal the decision, stipulation between the City and the licensee that such decision is final, or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition 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 Local Licensing Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied and finds:
 - (1) That the public welfare and morals will not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purpose; and
 - (2) That the books and records of the licensee are kept in such a manner that the loss of sales or other impacts that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
 - (3) That the licensee has not had his or her license suspended or revoked by the Local Licensing Authority, nor had any suspension stayed by payment of a fine to the Local Licensing Authority, during the two (2) years immediately preceding the date of the complaint or request which resulted in a final decision to suspend the license.
- (f) The fine imposed pursuant to Subsection (e) shall not be less than five hundred dollars (\$500.00) nor greater than one hundred thousand dollars (\$100,000.00) and the Local Licensing Authority may consider, among other things, licensee's estimated gross revenues

from sales or other impacts during the period of the proposed suspension in determining the amount of the fine.

- (g) The Local Licensing Authority may, in its sole discretion, enter into a stipulation and order with a licensee imposing a fine in lieu of suspension of a license contemporaneous with entering into a stipulation and order with a licensee containing such findings as are required in Subsection (e).
- (h) Payment of any fine accepted in lieu of allowing a license suspension to become operable shall be in the form of cash, certified check or cashier's check. Said funds shall be deposited into the general fund of the City of Rifle. Upon receipt of the fine, the Local Licensing Authority shall enter an order permanently staying the operation of the suspension.
- (i) If the Local Licensing Authority does not make the findings required under Subsection (e) and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date of suspension set by the Local Licensing Authority. Notwithstanding the foregoing, the Local Licensing Authority may grant such stays of the suspension proceedings as are necessary for it to complete its investigation and make the findings required under Subsection (e).

Sec. 6-9-180. - Operation of retail marijuana cultivation facility and retail marijuana store.

(a) The operation of retail marijuana cultivation facilities shall be subject to the following:

- (1) No retail sale of marijuana may occur at a retail marijuana cultivation facility.
- ~~(b)~~ (2) Any signage for a retail marijuana cultivation facility shall comply with the requirements of Chapter 16, Article VIII of this Code. No sign shall contain a graphic/image of any portion of a marijuana plant.
- ~~(c)~~ (3) A retail marijuana cultivation facility must occur indoors and be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at any adjoining business, parcel or tract of real property. Violation of this Subsection shall be enforced following Section 6-8-160(c).
- ~~(d)~~ (4) A retail marijuana cultivation facility shall be required to have waste, chemical, and bioproduct storage and disposal measures as determined reasonably necessary by the Local Licensing Authority.

(b) The operation of retail marijuana stores shall be subject to the following:

- (1) A retail marijuana store may open no earlier than 8:00 a.m. and shall close no later than 10:00 p.m. the same day. A retail marijuana store may be open seven (7) days a week.
- (2) Any signage for a retail marijuana stores shall comply with the requirements of Chapter 16, Article VIII of this Code. No sign shall contain a graphic/image of any portion of a marijuana plant.
- (3) The growing, cultivating, or processing of marijuana on or within the premises of a retail marijuana store is prohibited.
- (4) The sale or consumption of an alcoholic beverage within a retail marijuana store is prohibited.
- (5) Except for a dual store operation and only as provided at Section 6-8-150 of this Code, no person under the age of twenty-one (21) shall be allowed in any portion of a retail marijuana store.

- (6) Each licensee shall maintain an accurate and complete record of all marijuana sold or dispensed at the retail marijuana store with the following information, which shall be made available to the City upon demand:
- (i) The quantity of retail marijuana dispensed in each transaction;
 - (ii) The date and time the retail marijuana was sold or dispensed; and
 - (iii) The total amount paid per transaction for all goods and services provided.
- (7) A licensee shall provide adequate security on the premises of a retail marijuana store, including but not limited to the following:
- (i) A locking safe or secure vault permanently affixed to or built into the premises that is suitable for storage of all of the saleable inventory of marijuana;
 - (ii) Security surveillance cameras with back-up power installed to monitor the main entrance to discourage and to facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - (iii) Burglar alarm systems professionally monitored and maintained in good working condition.
- (8) The retail marijuana store premises shall be adequately ventilated so that adjacent properties are not impacted by odors.
- (9) No vending machines, drive-ups, or unsupervised sales shall be permitted on the premises.
- (10) No onsite consumption of marijuana shall be permitted on the licensed premises.
- (11) Only merchandise related to the retail marijuana store is allowed to be sold in a retail marijuana store.

Sec. 6-9-190. - Taxes.

Each licensee shall comply in full with the payment of City tax pursuant to Chapter 4 of this Code.

Sec. 6-9-200. - Penalties; injunctive relief.

- (a) It is a Class A misdemeanor offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Chapter 1, Article IV of this Code.
- (b) The operation of a retail marijuana cultivation facility without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction. In any case in which the City prevails in a civil action initiated pursuant to this Section, the City may recover its reasonable attorney fees plus costs of the proceeding.
- (c) The remedies provided in this Article IX are in addition to any other remedy provided by applicable law.

Sec. 6-9-210. - Rules and regulations.

The Local Licensing Authority shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this Article.

Sec. 6-9-220. - Indemnification of City.

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the retail marijuana cultivation facility that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and provide defense for and defend against any such liability, claims, or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Local Licensing Authority may require a licensee to execute a written instrument confirming the provisions of this Section.

Section 4. Article VIII, “Retail Marijuana Sales Tax,” of Chapter 4, “Revenue and Finance,” of the Rifle Municipal Code is hereby enacted as follows:

ARTICLE VIII

Retail Marijuana Sales Tax

Sec. 4-8-10. Levy of tax.

Commencing January 1, 2019, there is hereby levied an additional sales tax in the amount of five percent (5%) of the purchase price upon the sale of retail marijuana and retail marijuana infused products from a retail marijuana store, as defined in Article IX, Chapter 6 of this Code, within the City of Rifle. All revenues from the tax shall be deposited in the general fund. The sales tax levied by this Article was approved by majority vote of registered Rifle electors on September 12, 2017.

Sec. 4-8-20. Vendor liable for tax.

Each retail marijuana store shall collect the tax imposed in Section 4-8-10 of this Code upon every sale retail marijuana and retail marijuana infused products from the store. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Article. All sums of money paid by any person or facility to a retail marijuana store as sales taxes pursuant to this Article are public monies that are the property of the City. The person required to collect and remit retail marijuana sales taxes shall hold such monies in trust for the sole use and benefit of the City until paying them to the City.

Sec. 4-8-30. Licensing and reporting procedures.

A. Every person with a duty to collect the sales tax imposed by this Article shall obtain a tax license pursuant to the procedures set forth in Article II of Chapter 6 of this Code and shall report such taxes collected on forms prescribed by the Finance Director and remit such taxes to the City on or before the twentieth day of the month for the preceding month or months under report. A tax license shall be valid so long as:

- (1) the business remains in continuous operation, and
- (2) the license is not canceled by the licensee or revoked by the City, and
- (3) the business holds a valid retail marijuana store license from the City pursuant to Article IX of Chapter 6 of this Code.

The tax license may be canceled or revoked by the City as provided in Section 6-2-60 of this Code.

B. Every person engaged in the retail marijuana cultivation business in City shall keep books and records according to the standards of the Finance Director and subject to the Finance Director's right to audit pursuant to the procedures set forth in Article II of Chapter 4 of this Code.

C. The provisions set forth in Article II of Chapter 4 of this Code regarding Administration, Tax Overpayments, Tax Deficiencies, Taxpayer's Remedies, and Enforcement shall all apply to retail marijuana sales taxation by the City.

Sec. 4-8-40. Violation; penalty.

Failure to comply with the terms of this Article by payment of taxes, remitting the tax to the City, and otherwise complying with the terms of this Article shall constitute an offense in violation thereof subject to the violation provisions set forth in Section 4-2-470 of this Code. Such remedies shall be cumulative with all other remedies provided herein for the enforcement of this Article. The City shall have the right to collect from any person who fails to comply with the terms of this Article all legal, court, and other costs and expenses necessary to or incidental to the collection of said tax and/or lien action as provided for in Section 4-7-50 of this Code, including reasonable attorneys' fees, filing fees and other costs, and recording fees.

Sec. 4-8-50. Lien on property.

If any person fails to pay the sales tax when due, the Finance Director may issue a notice of lien on the real and personal property of the taxpayer following the provisions of Sections 4-2-400 through 4-2-460 of this Code.

Section 5. Appendix A of the Rifle Municipal Code shall is hereby amended as follows, with underlined text added:

| Code § | Description | Fee |
|---------|---|------------|
| 6-9-80 | Retail marijuana cultivation facility <u>or retail marijuana store</u> application form | \$50.00 |
| 6-9-80 | Retail marijuana cultivation facility <u>or retail marijuana store</u> application filing fee | \$5,000.00 |
| 6-9-80 | Background investigation fee per person | \$100.00 |
| 6-9-130 | Appeal fee (plus reimbursement of costs) | \$250.00 |
| 6-9-140 | License transfer fee (location or ownership) | \$5,000.00 |
| 6-9-140 | Facility modification/expansion fee | \$2,500.00 |
| 6-9-150 | Retail marijuana cultivation facility <u>or retail marijuana store</u> renewal application filing | \$5,000.00 |

| | | |
|--|--------------------------|--|
| | fee/Annual operating fee | |
|--|--------------------------|--|

Section 6. The temporary ban on the licensing and location of marijuana businesses in the City of Rifle enacted by Ordinance No. 12, Series of 2018 shall terminate December 10, 2018.

Section 7. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed this Ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 8. The City further determines that the adoption of this Ordinance is in the best interests and necessary to protect the health, safety and welfare of the citizens of the City of Rifle. The City also hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to Article XVIII, § 16(5)(f) and Article XX of the Colorado Constitution, the Home Rule Charter of the City of Rifle and the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S., Section 31-15-401, C.R.S. (concerning municipal police powers), and Section 31-15-501 (concerning municipal power to regulate businesses).

INTRODUCED on November 7, 2018, read by title, passed on first reading with amendment, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on November 21, 2018, passed with amendment, approved and ordered published in full as required by Charter.

Dated this ___ day of _____, 2018.

CITY OF RIFLE, COLORADO

BY _____
Mayor

ATTEST:

City Clerk