

RESOLUTION NO. 013-2016

A RESOLUTION ESTABLISHING RULES AND REGULATIONS  
RELATING TO THE LICENSING AND OPERATION  
OF RETAIL MARIJUANNA STORES  
IN THE TOWN OF CRESTONE

WHEREAS, Ordinance # 2016-002, which was passed by the Board of Trustees of the Town of Crestone following a regular town election on April 5, 2016, provided for the legalization and taxation of retail marijuana stores in the Town of Crestone; and

WHEREAS, said Ordinance empowered the Town Board of Trustees to enact and promulgate rules and regulations relating to the operation of retail marijuana stores and stores in the Town of Crestone.

NOW THEREFORE, be it resolved by the Board of Trustees of the Town of Crestone that the rules and regulations attached hereto and incorporated herein as Exhibit A, are hereby enacted relating to the operation of retail marijuana stores within the Town of Crestone.

Said Rules and Regulations may be further amended from time to time by further Resolution of the Town Board of Trustees.

DONE and SIGNED this 13th day of June, 2016.



Allyson Ransom  
Allyson Ransom, Town Clerk

Kairina Danforth  
Kairina Danforth, Mayor

# TABLE OF CONTENTS

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|                                                                                |    |
|--------------------------------------------------------------------------------|----|
| Sec. 1-1. Findings. ....                                                       | 3  |
| Sec. 1-2. Purpose. ....                                                        | 3  |
| Sec. 1-3. Incorporation of state law. ....                                     | 4  |
| Sec. 1-4. Authority. ....                                                      | 4  |
| Sec. 1-5. Definitions.....                                                     | 4  |
| Sec. 1-6. Retail Marijuana Stores,.....                                        | 9  |
| Sec. 1-7. Retail marijuana products manufacturer facilities.....               | 9  |
| Sec. 1-8. Retail marijuana cultivation facilities, prohibited.....             | 10 |
| Sec. 1-9. Retail marijuana testing facilities, prohibited.....                 | 10 |
| Sec. 1-10. <b>Error- No Entry</b>                                              |    |
| Sec. 1-11. Location criteria.....                                              | 10 |
| Sec. 1-12. Authority to impose conditions on license.....                      | 12 |
| Sec. 1-13. Annual Operations fee. ....                                         | 12 |
| Sec. 1-14. Display of license. ....                                            | 13 |
| Sec. 1-15. Management of licensed premises. ....                               | 13 |
| Sec. 1-16. Change in manager; change in financial interest. ....               | 13 |
| Sec. 1-17. Transfer of ownership; change of location.....                      | 14 |
| Sec. 1-18. Hours of operation.....                                             | 14 |
| Sec. 1-19. Signage and advertising.....                                        | 14 |
| Sec. 1-20. Security requirements.....                                          | 14 |
| Sec. 1-21. Required notices.....                                               | 15 |
| Sec. 1-22. On-site consumption of marijuana. ....                              | 15 |
| Sec. 1-23. Prohibited acts.....                                                | 15 |
| Sec. 1-24. Visibility of activities; paraphernalia; control of emissions. .... | 16 |
| Sec. 1-25. Disposal of marijuana byproducts.....                               | 16 |
| Sec. 1-26. Sales and business license required.....                            | 16 |
| Sec. 1-27. Sales tax.....                                                      | 16 |
| Sec. 1-28. Required books and records. ....                                    | 16 |
| Sec. 1-29. Inspection of licensed premises. ....                               | 17 |
| Sec. 1-30. Nonrenewal, suspension or revocation of license.....                | 17 |
| Sec. 1-31. Violations and penalties.....                                       | 17 |
| Sec. 1-32. No Town liability; indemnification.....                             | 18 |
| Sec. 1-33. No waiver of governmental immunity. ....                            | 18 |
| Sec. 1-34. Other laws remain applicable.....                                   | 18 |
| Sec. 1-35. Rules and regulations. ....                                         | 19 |
| Sec. 1-36. Judicial review. ....                                               | 19 |
| Section 2.... Severability.....                                                | 19 |

### **Sec. 1-3. Incorporation of state law.**

The provisions of the Colorado Retail Marijuana Code, and any rules and regulations promulgated thereunder as the same may be amended from time to time, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article.

### **Sec. 1-4. Authority.**

The Town Board of Trustees hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- a) Article XVIII, Section 16 of the Colorado Constitution;
- b) The Colorado Retail Marijuana Code, C.R.S. § 12- 43.4- 101, *et seq.*;
- c) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C. R.S.;
- d) Part 3 of Article 23 of Title 31, C. R.S. (concerning municipal zoning powers);
- e) Section 31-15-103, C.R.S. (concerning municipal police powers);
- f) Section 31-15-401, C.R.S. (concerning municipal police powers);
- g) Section 31-15-501, C.R.S. (concerning municipal authority to regulate stores).

### **Sec. 1-5. Definitions.**

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

*Applicant* means a person twenty-one ( 21) years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

*Colorado Medical Marijuana Code* means Article 43.3 of Title 12, Colorado Revised Statutes.

*Consumer* means a person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use by a person twenty-one (21) years of age or older, but not for resale to others.

*Cultivation or cultivate* means the process by which a person grows a marijuana plant. Dual operation means a business that operates as both a licensed medical marijuana business and a licensed retail marijuana establishment in accordance with Section 6- 562 of this Code.

*Industrial Hemp* means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

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

- 1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article;

- 2) 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, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or
- 3) the licensee's retail marijuana store, retail marijuana products manufacturing operation, or 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 store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility is located. Evidence to support such a finding can include:
  - (i) a continuing pattern of offenses against the public peace, as defined in Article XII of Chapter 10 of the Crestone Municipal Code;
  - (ii) a continuing pattern of drug-related criminal conduct within the premises of the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility or in the immediate area surrounding the retail marijuana store, retail marijuana product manufacturing operation, or retail marijuana cultivation facility arising out of the operation of the establishment; or
  - (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility. License means a document issued by the Town officially authorizing an applicant to operate a retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility pursuant to this Article.
- 4) *Licensee* means the person to whom a license has been issued pursuant to this Article.

*Licensed premises* means the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the license is authorized to cultivate, manufacture, distribute, or sell retail marijuana or retail marijuana products in accordance with state and local law. Local licensing authority means the Town Board of Trustees of the Town of Crestone.

*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. Marijuana does not include industrial hemp, nor does it include 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 accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Medical marijuana business* means a medical marijuana center or medical marijuana infused products manufacturer as defined in the Colorado Medical Marijuana Code.

*Person* means a natural person, partnership, association, company, corporation, limited liability

company or organization.

*Retail marijuana* means marijuana that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment.

*Retail marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, such as but not limited to, edible products, ointments and tinctures. Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

*Retail marijuana establishment* means a retail marijuana store or a retail marijuana products manufacturing operation.

*Retail marijuana product manufacturing facility* means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Retail marijuana store* means an entity 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.

*Retail marijuana testing facility* means an entity licensed by the Town and State of Colorado to analyze and certify the safety and potency of marijuana.

*State licensing authority* means the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the State of Colorado pursuant to C. R.S. § 12-43.4- 201.

- b) In addition to the definitions provided in Subsection (a) hereof, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, § 16 of the Colorado Constitution, or the Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this Article by reference.

**Sec. 6-556. License required for Operation of a Retail Marijuana Establishment.**

The Town hereby authorizes the operation of retail marijuana stores in the Town as set forth in this Article. It shall be unlawful for any person to establish or operate a retail marijuana establishment in the Town without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

**Sec. 6-557. Requirements of application for license; payment of application fee; denial of license.**

- a) A person seeking a license or renewal of a license issued pursuant to this Article shall submit an application to the local licensing authority on forms provided by the Town

Clerk.

At the time of application, each applicant shall pay a nonrefundable operating fee to the Town in an amount to be determined by the Town by separate Resolution to defray the costs incurred by the Town for costs including but not limited to inspection, administration, and enforcement of retail marijuana stores. In addition, the applicant shall present one (1) of the following forms of identification:

- 1) an operator' s, chauffer' s or similar type of driver's license issued by any state within the United States or a U. S. Territory;
  - 2) an identification card, issued by any state for purpose of proving age using requirements similar to those in C. R.S. §§ 42-2-302 and 42-2-303;
  - 3) a United States military identification card;
  - 4) a valid passport; or
  - 5) an enrollment card issued by the government authority of a federally recognized tribe located in the state of Colorado.
- b) The applicant shall also provide the following information on a form approved by, or acceptable to the Town, which information shall be required for the applicant, all employees, including the proposed manager of the retail marijuana establishment, and all persons having a ten percent (10%) or more financial interest in the retail marijuana establishment that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:
- 1) name, address, date of birth;
  - 2) a complete set of fingerprints;
  - 3) suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Town may request;
  - 5) if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
  - 6) the name and complete address of the proposed retail marijuana establishment, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the Town;
  - 7) if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
  - 8) a copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;
  - 9) evidence of a valid sales tax license for the business;
  - 10) if the retail marijuana establishment will be providing retail marijuana products in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the State;
  - 11) a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the marijuana store and cultivation facility, loading zones and all areas in which retail marijuana will be stored, grown or dispensed;
  - 12) a comprehensive business operation plan for the retail marijuana establishment which shall contain, without limitation, the following:

- a. a security plan meeting the requirements of Section 6- 573 of this Article;
  - b. a description by category of all products to be sold;
  - c. a signage plan that is in compliance with all applicable requirements of this Article and other applicable provisions of the Crestone Municipal Code, as well as the Colorado Retail Marijuana Code and all rules and regulations promulgated thereunder; and
  - d. a plan for the disposal of marijuana and related byproducts meeting the requirements of Section 6- 579 of this Article.
- 13) for retail marijuana products manufacturing operation license applications, a copy of any and all contracts between the applicant and any retail marijuana cultivation operation from which it will be purchasing retail marijuana for use in the production of retail marijuana products; and
- 14) any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.
- c) The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.
- d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, a license from the state licensing authority and any development approvals or building permits required by this Article and any other applicable provisions of the Crestone Municipal Code.
- e) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected departments of the Town to determine whether the application is in full compliance with all applicable laws, rules and regulations. Upon receipt of an application for a new license, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the Town not less than ten ( 10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty- six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application.
- f) Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Article. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

- g) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of retail marijuana stores located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within ninety (90) days of the receipt of the complete license application. Such decision shall be by Resolution and shall state the reasons for the decision. The Resolution shall be sent via certified mail to the state licensing authority and the applicant at the address shown in the application.
- h) The Town shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, including, without limitation, any associated dual operation facility, if applicable, to determine compliance with any applicable requirements of this Article or other applicable requirements of the Crestone Municipal Code.

## **Sec. 1-6. Retail Marijuana Stores,**

- a) A licensed retail marijuana store may sell retail marijuana or retail marijuana products to persons twenty-one (21) years of age or older in the following quantities:
  - 1) Up to one (1) ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to Colorado residents; or
  - 2) Up to one-quarter (1/4) ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to a non-Colorado resident.
- b) The following forms of identification may be accepted for purposes of determining Colorado residency: a valid state of Colorado Driver's license; a valid state of Colorado identification card; or any other valid government- issued picture identification that demonstrates that the holder of the identification is a Colorado resident.
- c) The licensee shall use the total weight of its on-hand inventory at the end of the month preceding the purchase.
- d) Retail marijuana store licensees are prohibited from selling, soliciting or receiving orders for retail marijuana or retail marijuana products over the internet.
- e) Retail marijuana store licensees are prohibited from selling or giving away any consumable product that is not a retail marijuana product, including but not limited to cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not retail marijuana products.

## **Sec. 1-7. Retail marijuana products manufacturer facilities, prohibited**

Retail Marijuana products manufacturing is prohibited in the Town.



## **Sec. 1-8. Retail marijuana cultivation facilities, prohibited**

Retail marijuana cultivation facilities are prohibited in the Town.

## **Sec. 1-9. Retail marijuana testing facilities, prohibited**

Retail marijuana testing facilities are prohibited in the Town.

## **ec. 1-11. Location criteria.**

Prior to the issuance of a license for a retail marijuana establishment, the local licensing authority shall determine whether the proposed location of the retail marijuana establishment complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

- a) No retail marijuana establishment shall be located at the following locations:
  - 1) Within 500 feet of any school or facility where minors frequent.
- b) The distances described in subsection (a) shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the retail marijuana establishment using a route of direct pedestrian access.
- c) Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.
- d) The suitability of a location for a retail marijuana establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.

Sec. 6- 564. Persons prohibited as licensees and employees.

- a) No license shall be issued to, held by, or renewed by any of the following:
  - 1) Any person until all applicable fees have been paid;
  - 2) Any person who is not of good moral character satisfactory to the local licensing authority;
  - 3) Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;
  - 4) Any partnership, association or company, any of whose officers are not of good moral

- character satisfactory to the local licensing authority;
- 5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;
  - 6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;
  - 7) Any natural person under twenty-one (21) years of age;
  - 8) Any person for a licensed location that is also a retail food establishment or wholesale food registrant;
  - 9) Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;
  - 10) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
  - 11) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license;
  - 12) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;
  - 13) Any person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible; or
  - 14) Any person who has made a false, misleading or fraudulent statement on his or her application.
- b) No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed retail marijuana establishment, any of the following:
- 1) Any person who is not of good moral character satisfactory to the local licensing authority;
  - 2) Any person who is under twenty- one (21) years of age;
  - 3) Any person who is not currently a resident of Colorado;
  - 4) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
  - 5) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license; or
  - 6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.
- c) Jurisdiction.
- 1) In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record,

including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

- 2) As used in Subsection (c)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

#### **Sec. 6-565. Issuance of license; duration; renewal.**

- a) Upon issuance of a license, the Town shall provide the licensee with one (1) original of such license for each retail marijuana establishment to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, the type of facility or establishment for which it is issued, and the address of the facility at which it is to be displayed.
- b) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Article. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. It is incumbent upon the licensed applicant to pay the renewal fee and complete renewal request within the above prescribed timeframe or the license shall be revoked. The timely filing of a completed renewal application shall extend the current license until a decision is made on the renewal.
- c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Article. The Town shall not accept renewal applications after the expiration date of such license.
- d) A licensee whose license expires shall not process, manufacture, distribute or sell retail marijuana or retail marijuana products until all necessary new licenses have been obtained.

#### **Sec. 1-12. Authority to impose conditions on license.**

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.

#### **Sec. 1-13. Annual Operations fee.**

Upon issuance of a license or any renewal of a license, the licensee shall pay to the Town a fee in an amount determined by the Town by separate Resolution to be sufficient to cover the annual cost of

inspections conducted pursuant to Section 6- 583 of this Article by the Saguache County Sheriff's Department, and such other departments of the Town as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

### **Sec. 1-14. Display of license.**

- a) Each license shall be limited to use at the premises specified in the application for such license.
- b) Each license shall be continuously posted in a conspicuous location at the retail marijuana establishment.

### **Sec. 1-15. Management of licensed premises.**

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person who has discharged a sentence for a felony conviction within the past five (5) years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license.

### **Sec. 1-16. Change in manager; change in financial interest.**

- a) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers under Section 6- 569 of this Article.
- b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the retail marijuana establishment that is the subject of a license shall be a person who has discharged a sentence for a felony conviction within the past five ( 5) years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license.

- c) Whenever any licensee causes a change in its officers, directors or manager, and a license addendum is required to be filed with the State, and an application fee in the amount of one hundred dollars (\$ 100. 00) shall be paid to the Town at the time of filing the addendum with the Town and resubmit a new application.

## **Sec. 1-17. Transfer of ownership; change of location.**

- a) Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Article, the Colorado Retail Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed retail marijuana establishment premises for a period of at least ten (10) days prior to such hearing, and the applicant has been provided at least ten (10) days prior notice of such hearing.
- b) Change of location. A licensee from another jurisdiction that has previously obtained a license from the state and any other local licensing authority as applicable may move his or her permanent location to the Town of Crestone so long as the applicant and the new location conform to the requirements of this Article.

## **Sec. 1-18. Hours of operation.**

A retail marijuana business may open no earlier than 11: 00 a.m. and shall close no later than 8: 00 p.m. the same day. A retail marijuana business may be open seven (7) days a week.

## **Sec. 1-19. Signage and advertising.**

All signage and advertising for a retail marijuana establishment shall comply with all applicable state laws as well as the provisions of this Article and other applicable provisions of the Crestone Municipal Code, including the Sign Code of the Town of Crestone, as the same may be amended from time to time.

## **Sec. 1-20. Security requirements.**

- a) Security measures at retail marijuana stores shall include at a minimum the following:
  - 1) security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
  - 2) robbery and burglary alarm systems which are professionally monitored and

- maintained in good working condition;
  - 3) a locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;
  - 4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Article and other applicable provisions of the Crestone Municipal Code; and
  - 5) deadbolt locks on all exterior doors.
- b) All security recordings shall be preserved for at least seventy-two (72) hours by the licensee and be made available to the Crestone Police Department or Saguache County Sheriff's Department upon request for inspection.

### **Sec. 1-21. Required notices.**

There shall be posted in a conspicuous location in each retail marijuana establishment, a legible sign containing the following warnings:

- a) That the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
- b) That loitering in or around a retail marijuana establishment is prohibited by law;
- c) That possession and distribution of marijuana is a violation of federal law; and
- d) That no one under the age of twenty one (21) years is permitted on the premises.

### **Sec. 1-22. On-site consumption of marijuana.**

The use, consumption, ingestion or inhalation of retail marijuana or retail marijuana products on or within the premises of a retail marijuana establishment is prohibited.

### **Sec. 1-23. Prohibited acts.**

It shall be unlawful for any licensee to:

- a) employ any person at a retail marijuana establishment who is not at least twenty one (21) years of age or who has a criminal history as described in Subsections 6-564 (a)(11) and (12);
- b) purchase or otherwise obtain retail marijuana from any source that is not properly authorized under state and local law to sell marijuana for retail consumption;

- c) permit the sale or consumption of alcohol beverages on the licensed premises;
- d) post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana; or
- f) dispense marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

## **Sec. 1-24. Visibility of activities; paraphernalia; control of emissions.**

- a) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a retail marijuana store. No retail marijuana or paraphernalia shall be displayed or kept in a retail marijuana establishment so as to be visible from outside the licensed premises.
- b) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

## **Sec. 1-25. Disposal of marijuana byproducts.**

The disposal of marijuana, marijuana products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

## **Sec. 1-26. Sales and business license required.**

At all times while a permit is in effect the licensee shall possess a valid license issued under Section 6-2 of the Crestone Municipal Code.

## **Sec. 1-27. Sales tax.**

Each licensee shall collect and remit Town sales tax on all retail marijuana, retail marijuana products, paraphernalia and other tangible personal property sold by the licensee.

## **Sec. 1-28. Required books and records.**

- a) Every licensee shall maintain an accurate and complete record of all retail marijuana

purchased, sold or dispensed by the retail marijuana store in any usable form. Such record shall include the following:

- 1) The identity of the seller and purchaser involved in each transaction;
  - 2) The total quantity of, and amount paid for, the retail marijuana and/or the retail marijuana product( s); and
  - 3) The date, time and location of each transaction.
- b) All transactions shall be kept in a numerical register in the order in which they occur.
- c) All records required to be kept under this Article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the Crestone Law Enforcement Officer or other Town departments pursuant to this Article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

### **Sec. 1-29. Inspection of licensed premises.**

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Crestone Law Enforcement Officer and all other Town departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

### **Sec. 1-30. Nonrenewal, suspension or revocation of license.**

- a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.
- b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

### **Sec. 1-31. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this Article, shall be subject to the following penalties:



- a) The operation of a retail marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Crestone Municipal Court.
- b) The operation of a retail marijuana establishment without a valid license issued pursuant to this Article is also specifically determined to be a public nuisance pursuant to Section 7-2 of the Crestone Municipal Code.

### **Sec. 1-32. No Town liability; indemnification.**

- a) By accepting a license issued pursuant to this Article, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally, if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any 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 arising out of or in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

### **Sec. 1-33. No waiver of governmental immunity.**

In adopting this Article, the Town Board of Trustees is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24- 10- 101, et seq., C. R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers or its employees.

### **Sec. 1-34. Other laws remain applicable.**

- a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the Town. 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.
- b) Any licensee may be required to demonstrate, upon demand by the local licensing

authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

- c) If the State prohibits the sale or other distribution of marijuana through retail marijuana stores, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- d) The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

## **Sec. 1-35. Rules and regulations.**

The Town Board of Trustees shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the Town Clerk, as may be necessary for the proper administration of this Article.

## **Sec. 1-36. Judicial review.**

In accordance with Article 18, § 16 of the Colorado Constitution, decisions by the local licensing authority are subject to judicial review pursuant to C. R.S. § 24-4-106. Section 2 Safety Clause. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Crestone, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

## **Section 2 Severability.**

If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.