



551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 970.264.4151
Fax: 970.264.4634

**TOWN COUNCIL MEETING AGENDA
TUESDAY, SEPTEMBER 6, 2016
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. CALL MEETING TO ORDER**
- II. PUBLIC COMMENT** – *Please sign in to make public comment*
- III. CONSENT AGENDA**
 - 1. Approval of the August 18, 2016 Meeting Minutes**
 - 2. Liquor License**
 - a. Liquor License Renewal – Side Street Sushi at 135 Country Center Drive #9 & 10**
 - b. Liquor License Renewal – Ramon’s Restaurant at 56 Talisman Drive**
 - c. Special Events Permit – Pagosa Springs Chamber of Commerce ColorFest Event September 16 & 17, 2016 in the Town Park Athletic Field**
 - d. Special Events Permit – Geothermal Greenhouse Partnership Inc. fundraiser September 17, 2016 at Centennial Park Greenhouse lease site**
 - 3. Hot Springs Pedestrian Bridge Sale Agreement**
- IV. NEW BUSINESS**
 - 1. Appointing District 1 and District 3 Council Members**
 - 2. Deferral of Impact Fees Request, 341 Harman Park Drive**
 - 3. Ordinance 848, First Reading, South 8th Street Financing Authorizing Ordinance**
- V. OLD BUSINESS**
 - 1. Ordinance 847, Second Reading, Revised Marijuana Ordinance**
 - 2. Resolution 2016-13, County Courthouse Location**
- VI. PUBLIC COMMENT** – *Please sign in to make public comment*
- VII. COUNCIL IDEAS AND COMMENTS**
- VIII. NEXT TOWN COUNCIL MEETING SEPTEMBER 22, 2016 AT 5:00 PM**
- IX. ADJOURNMENT**

**Don Volger
Mayor**



AGENDA DOCUMENTATION

LIQUOR LICENSES:III.2

PAGOSA SPRINGS TOWN COUNCIL

SEPTEMBER 6, 2016

FROM: BILL ROCKENSOCK, POLICE CHIEF

PROJECT: LIQUOR LICENSE RENEWALS

ACTION: DISCUSSION AND POSSIBLE ACTION

BACKGROUND

Businesses granted liquor licenses by the State of Colorado and the Town of Pagosa Springs are required to renew their liquor license annually. The Town Council, as the Local Licensing Authority, has requested that the Police Department provide them with information on police contacts with these businesses in consideration of their renewal application.

Annually, the Police Department works with the Colorado Liquor Enforcement Division to conduct compliance checks on businesses within the Town of Pagosa Springs holding liquor licenses throughout the year, Officers do perform random checks/walk thru of businesses selling liquor in the town limits.

The vendors listed below have requested a renewal of their liquor license. Based upon a local records check, the Police Department has found the following:

Side Street Sushi – Since January 1, 2016, there were no documented liquor violations at Side Street Sushi, located at 135 Country Center Drive #9 & #10.

Ramon's Restaurant – Since January 1, 2016, there were no documented liquor violations at Ramon's Restaurant, located at 56 Talisman Dr.

With Regard to Special Events Permits:

Geothermal Greenhouse Partnership – there have been no documented liquor violations associated.

Pagosa Springs Chamber of Commerce ColorFest– there have been no documented liquor violations associated.

ATTACHMENT(S):

None

RECOMMENDATION

It is the recommendation of the Police Chief that the Town Council,

Consider the above information when determining approval of liquor license renewals.

HOT SPRINGS PEDESTRIAN BRIDGE PURCHASE AND SALE AGREEMENT

This Hot Springs Pedestrian Bridge Purchase and Sale Agreement is made and entered into this _____ day of August, 2016 by and between the Town of Pagosa Springs, Colorado, a home rule municipal corporation organized under the laws of the State of Colorado, with an address of PO Box 1859, Pagosa Springs, CO 81147 ("Town"), and Rafter T Land and Cattle, LLC, an Oklahoma limited liability company, 2121 CR 175, Bayfield, CO 81122 ("Buyer").

RECITALS

- A. The Town owns a pedestrian bridge, including both the steel bridge structure and decking, over the San Juan River which is known as the Hot Springs Pedestrian Bridge (the "Bridge").
- B. The Bridge was installed improperly and contains defects that may affect its structural soundness. The Town plans to remove and replace the Bridge.
- C. Buyer, fully aware of the Bridge's defects, wishes to buy the Bridge pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the Town and Buyer agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into this Agreement.
2. Sale of Bridge. In consideration of the mutual covenants and agreements contained in this Agreement, the Town agrees to sell and Buyer agrees to purchase the Bridge upon the terms and conditions set forth below.
3. Delivery of Purchase Price and Bill of Sale. The purchase price for the Bridge shall be Thirty Thousand Dollars (\$30,000) ("Purchase Price"). Before Buyer loads the Bridge onto a truck or otherwise takes possession of the Bridge, Buyer shall remit the Purchase Price to the Town by cashier's check, and the Town shall deliver an executed bill of sale in substantially the form set forth in Exhibit A, attached hereto and incorporated herein ("Bill of Sale"), transferring ownership and title of the Bridge from Town to Buyer.
4. Bridge Removal.

(a) Upon no less than three (3) weeks' notice to Buyer, the Town will remove the Bridge from its current location and dismantle it into two (2) sections (the "Bridge Removal") in a reasonable and customary manner. The Town shall assume all risk of loss or damage to the Bridge until the Bridge is set on the ground during the Bridge Removal, at which point all risk of loss or damage shall transfer to the Buyer.

(b) Within a reasonable time before and after the Bridge Removal, Buyer and his engineer shall inspect the Bridge and note its condition in writing. Buyer may cancel this Agreement only if significant damage to the Bridge is caused during the Bridge Removal that materially changes the structure and function of the Bridge such that the Bridge is no longer useable for Buyer's intended use. In such event, Buyer must provide Town with notice to cancel no later than twenty-four (24) hours following the Bridge Removal. To clarify, upon execution of this Sales Agreement, Buyer may not cancel this Agreement due to damage to the Bridge that existed prior to the Bridge Removal. If Buyer and his engineer are not present during the Bridge Removal, after receipt of the 3 week notice as stated herein, they will be deemed to have inspected and approved the condition of the Bridge.

(c) Upon acceptance of the Bill of Sale by Buyer, Buyer will be deemed to have accepted the condition of the Bridge as-is and to have waived its right to cancel this Agreement pursuant to this Section.

(d) Buyer must take possession of the Bridge and remove it from the site within twenty-four (24) hours after delivery of the Bill of Sale. If Buyer fails to take possession of the Bridge within such time period, the Town may, in its sole discretion, dispose of the Bridge and charge Buyer for such disposal costs, move the Bridge to Buyer's residence or principal place of business and charge Buyer for such moving costs, or sell the Bridge to another purchaser.

5. Bridge Sold As-Is. Except as otherwise expressly provided in this Agreement: (a) Buyer is relying upon its own knowledge of and inspection of the Bridge to evaluate the condition of the Bridge and the suitability of the Bridge for Buyer's intended use; (b) the Bridge is being bought and sold AS IS with no warranties, express or implied, as to its physical condition, suitability for use, its value, or any other attribute and Buyer is fully aware that the Bridge has defects, including but not limited to cracking in the steel girders and that the Bridge may not be structurally sound; (c) the Town makes no representations or warranties of any kind regarding the condition of the Bridge; (d) Buyer agrees to indemnify and hold Town harmless from damages and injuries associated with Buyer's possession, ownership, and use of the Bridge; (e) Buyer's acceptance of the Bill of Sale conveying the Bridge shall represent confirmation of Buyer's acceptance of the terms of this Section. Buyer shall be solely responsible for any repairs to the Bridge that are required to make the Bridge suitable for Buyer's intended use; and (f) Buyer acknowledges receipt of a copy of the structural engineer's report prepared by James Van Liere regarding the existing condition and structural flaws of the Bridge.

6. Warranties and Covenants.

(a) Warranties of the Town. The Town hereby warrants and represents to Buyer that as of the date of this Agreement, the Town is the holder of all the right, title and interest in the Bridge and that it has the authority to enter into this Agreement.

(b) Covenants of Buyer. Buyer hereby covenants that it shall assume full ownership and responsibility for the Bridge pursuant to the terms stated herein.

7. General Provisions.

(a) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Town and Buyer and their respective heirs, executors, legal representatives, successors and assigns.

(b) Notices. All notices, demands, requests, exercises, and other communications under this Agreement by either party shall be in writing and sent via U.S. mail to the other party at the addresses listed above.

(c) Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected and shall be enforced to the greatest extent by law.

(d) Further Acts. Each party agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

(e) Entire Understanding. This Agreement and the attached Exhibit contain the entire understanding between the parties and supersedes any prior understandings and/or written or oral agreements between them with respect to the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding involving this Agreement.

(f) Applicable Law. This Agreement shall be interpreted, construed, and enforced according to the laws of the State of Colorado, exclusive of its laws regarding conflicts of law.

(g) No Oral Modifications. Neither this Agreement nor any provisions hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(h) No Merger. The provisions of this Agreement survive and do not merge with the Bill of Sale.

(i) Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.

EXHIBIT A

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS,

That the **Town of Pagosa Springs, Colorado**, a home-rule municipal corporation organized under the laws of the State of Colorado ("Grantor"), for and in consideration of the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), lawful money of the United States, to it in hand paid, at or before delivery of these presents by Rafter T Land and Cattle, LLC having an address of 2121 CR 175, Bayfield, CO 81122 ("Grantee"), the receipt of which is hereby acknowledged, by these presents does hereby grant, convey and quitclaim unto Grantee, its successors and assigns, all right, title and interest of Grantor in and to all of Grantor's right, title and interest in the pedestrian bridge over the San Juan River (known as the Hot Springs Pedestrian Bridge), including the steel bridge structure and decking. The foregoing conveyance is made without recourse, representation or warranty of any kind, except that Grantor represents that the personal property conveyed hereby is free of any monetary lien or encumbrance.

TO HAVE AND TO HOLD the same unto Grantee, its successors and assigns forever.

The Bridge is being bought and sold AS IS with no warranties, express or implied, as to its physical condition, suitability for use, its value, or any other attribute. Grantee is fully aware that the Bridge has defects, including but not limited to cracking in the steel girders and that the Bridge may not be structurally sound and the Grantor makes no representations or warranties of any kind regarding the condition of the Bridge. Grantee shall be solely responsible for any repairs to the Bridge that are required to make the Bridge suitable for Grantee's intended use. Grantee shall indemnify and hold Grantor harmless from damages and injuries associated with Grantee's possession and use of the Bridge. Grantee's acceptance of this Bill of Sale shall represent confirmation of Grantee's acceptance of these terms and conditions.

This Bill of Sale shall be governed by and construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of this ___ day of _____, 2016.

**GRANTOR: TOWN OF PAGOSA
SPRINGS, COLORADO**

By: _____
Don Volger, Mayor

ATTEST:

April Hessman, Town Clerk

Rafter T Land and Cattle, LLC, by its Manager, John H. Hale, hereby accepts the conveyance of the Hot Springs Pedestrian Bridge from the Town of Pagosa Springs, Colorado by this Bill of Sale.

GRANTEE

John H. Hale, Manager

Rebecca Anderson
476 S. 7th St.
PO Box 53
Pagosa Springs, CO 81147
(504) 655-2937
missrebeccalee@yahoo.com

August 29, 2016

Town Council
c/o Town of Pagosa Springs
PO Box 1859
Pagosa Springs, CO 81147

Dear Council Members:

Please accept this letter of interest as my application for the open Town Council seat in District 1.

I am of a gender and generation that are not currently represented on Town Council. I believe it's important to have a Council as diverse as the population it represents.

I have dedicated over a decade of service to the issue of affordable housing in various communities, including four years of service to Habitat for Humanity of Archuleta County in both board and staff positions. I also played an instrumental role in the development of the local housing workgroup aimed at addressing the lack of affordable housing in our community. Furthermore, I have volunteered with Pagosa Mountain Morning Rotary which has allowed me to connect with the local business community, am personally connected with the church community, and am a dedicated volunteer at Pagosa Springs Center for the Arts.

The changing scope of this community is attracting a younger generation that is underrepresented in local government. We must evolve in order to continue attracting young families and business professionals that will allow our community to thrive. I believe that my dedication to community along with the inherently differing perspectives of my generation and gender will be an asset to Town Council.

Thank you for your consideration. I look forward to discussing this opportunity with you.

Sincerely,



Rebecca Anderson

Nicole DeMarco

267 North 6th St. Pagosa Springs, CO 81147 | 970.903.2624 | nicolecdemarco@gmail.com

August 30, 2016

April Hessman
Town Clerk
PO Box 1859
Pagosa Springs, CO 81147

Dear Ms. Hessman:

Please accept this as my letter of interest to be considered for the District Three vacancy on Town Council. I meet all of the qualifications for elected office as specified on the Town website. If selected, I am committed to fulfilling the remaining two years on Council.

I stumbled upon Pagosa in the fall of 2009 during a migratory period in life. I was somewhere between a flat tire and broke, weather was changing, and thus decided it was time to hunker down for winter. I landed a job, and just as importantly, found community at Wolf Creek Ski Area. I stayed through the winter and left that spring for the rivers of Alaska and the following winter in South America. I was in route from Georgia to Idaho in the spring of 2011 when I came back through Pagosa to earn some gas money and visit with friends. At this time, I was offered a year-round gig at Wolf Creek and have been in Pagosa since.

Since leaving home, Pagosa is the only place I have returned to. It is people, place and passion for me. I've still yet to decide what season I like best. It has taken me in, provided direction and has come to be the place I call home. I bought my house last April and encouraged my sister to move out. Thus, I am where I want to be and have put down roots for a very full life in this town. So, now it is time to give back.

I bring a unique fusion of life experience to the table. Immediately upon graduation I went to Washington, D.C. to try my hand at politics. I was a research assistant at a national security think tank, and then the Deputy Press Secretary for John D. Rockefeller, IV. While still fascinated with international matters, I have grown to appreciate the impact of local governance. These decisions have tangible bearings on the daily business of life.

In addition to politics, I gained invaluable experience during my time in upper management at Wolf Creek Ski Area. I was exposed to the financial realities of operating a tightly held company totally dependent upon the fickleness of weather. I managed employees and am aware of the challenges they face in making a life here in Pagosa. I am fully submerged in the mountain sports lifestyle, which speaks to a significant portion of both residents and guests of Pagosa Springs.

I am fully vested in the future of this community. And with that comes the responsibility of paying it forward. I believe that serving on Town Council is such an opportunity for me.

Sincerely,

Nicole DeMarco



AGENDA DOCUMENTATION

NEW BUSINESS: IV.2

PAGOSA SPRINGS TOWN COUNCIL

SEPTEMBER 06, 2016

FROM: JAMES DICKHOFF, PLANNING DEPARTMENT

PROJECT: REQUEST FOR DEFERRAL OF IMPACT FEES FOR 341 HARMAN PARK DRIVE

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE / BACKGROUND

In 2007, the Town Council approved Ordinance 687 adding Section 21.12.12 to Municipal Code approving the deferral of impact fees for land development activities associated with affordable or attainable housing or land development activities that provide public benefit to residents of the Town that are conducted and funded by a governmental or a non-governmental, non-profit organization.

In 2008, the Town Council approved Ordinance 714 amending Ordinance 687 for the deferral of impact fees for land development activities associated with projects that provide public benefit to the residents of the Town. The minutes reflect the Council's desire for the deferrals to be determined on a case by case basis, and provisions for a deferment period of ten years, the application of a 3.5 percent per annum interest factor and the required execution of an impact fee deferral agreement.

In 2007 and 2008 the Town Council agreed to extend a deferral agreement to the new Pagosa Springs Pregnancy Center on 8th Street, the Springs Resort for the new Ecolux Hotel, the Pagosa Bible Church on Harman Park Drive, the IHM Pope John Paul II Catholic Church on North Pagosa Blvd, and the Sherwin Williams Paint Store on Eagle Drive.

On July 27, 2016 the Town Manager received a revised request for Impact Fee deferment for the development proposed at 341 Harman Park Drive, within the Harman Park Subdivision.

On August 9, 2016 the Design Review Board approved a Major Design Review application for 341 Harman Park Drive for the development of an indoor climate controlled self-storage facility. The project is proposed to be phased with phase one including two buildings;

Building #1 is a 38,000 sq ft one-single story structure that will be finished as an indoor climate controlled self-storage facility.

Building #2 is an 18,000 sq ft two story structure that will initially have an open floor plan and will accommodate indoor recreation space. The applicant would like to offer use of the space to the town for recreational needs.

APPLICANTS REQUEST

The applicant, Kelly Dunn, is requesting the Town Council consider the following:

- 1) Approve a 10-year deferral for payment of impact fees for Building #1 (payments over 10 years at an interest rate of 3%), and
- 2) Approve an extension for the collection of impact fees for Building #2, requiring the collection of fees at the time building #2 is converted to self-storage.

ANALYSIS

Development Impact fees associated with this project include the following:

Building #1, 1-story 38,000 square foot building.

Calculated Impact Fees: \$64,372.00-Roads (Town Council)*
\$6,042-Regional Public Buildings (Town Council)*
\$28,158-Emergency Service Providers (Fire District Board)

Building #2, 2-story 18,000 square foot building.

Calculated Impact Fees: \$30,492.00-Roads (Town Council)*
\$2,862.00-Regional Public Buildings (Town Council)*
\$13,338.00-Emergency Service Providers (Fire District Board)

Alternate consideration:

Building Two, 1-story prior to self-storage build out = 9,000 square foot building.

Calculated Impact Fees: \$15,246.00-Roads (Town Council)*
\$1,431.00-Regional Public Buildings (Town Council)*
\$6,669.00-Emergency Service Providers (Fire District Board)**

*** Impact Fees the Town Administers and may consider for deferrals.**

**** Emergency Service Providers fees may only be considered by the Fire District Board.**

LAND USE DEVELOPMENT CODE

"LUDC Section 10.12. - DEFERRAL

- 10.12.1.** *Payments of impact fees may be deferred for land development activities that provide public benefit to residents of the Town. The period of impact fee payment deferral shall not exceed ten (10) years. The Town Council may, however, extend the deferral period upon consideration of extenuating circumstances. The Town Council, may, by resolution, establish a policy to ensure any deferral is granted consistent with this Section and upon terms to ensure payment.*
- 10.12.2.** *As a condition of receiving a deferral of the payment of impact fees, a development entity shall be required to enter into an agreement with the Town establishing terms of deferral, which shall be recorded in the real property records of the Archuleta County Clerk and Recorder. Impact fee deferral agreements shall include the property owner's consent to the revocation of a certificate of occupancy for any building which is the subject of the deferral upon the failure to timely make a deferred payment. Deferral agreements shall also establish a lien against the property for the amount of the unpaid deferred impact fees."*

Town Council should consider the applicants request and determine compliance and consistency with the public benefit eligibility criteria.

Regarding the extension for the collection of fees for Building #2: The collection of calculated Impact Fees due is typically handled prior to the issuance of a Building Permit. Collection after this time has proven to be difficult to collect fees prior to Certificate of Occupancy requests and has taken much additional staff time to administer, as demonstrated during the economic incentives Town Council adopted during the economic downturn, which has now expired. As far as staff is aware, there is not a precedent set thus far for this type of request.

FISCAL IMPACT

If fees are deferred, The Town's expenditure of impact fees would be delayed until such funds are actually collected.

ATTACHMENT(S)

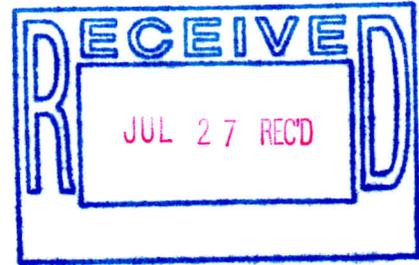
- 1) Letter of requests from the applicant.
- 2) Letters of support.

ALTERNATIVE ACTIONS FOR IMPACT FEE CREDITS

- 1) Direct Staff to Draft a Resolution Authorizing the deferral of Impact Fees for Building #1 and/or the Extension for Impact fee collection for Building #2 until Building #2 is Converted from a Recreation Facility to a Climate Controlled Self-Storage Facility, as Determined by Town Council for Consideration of Approval at the Next Town Council Meeting.
- 2) Direct Staff Otherwise.
- 3) DENY the requested Impact Fee deferral and/or extension for collection of fees.

July 27, 2016

Greg Schulte
Pagosa Springs Town Manager
P.O. Box 1859
Pagosa Springs, Colorado 81147



Mr. Schulte,

RE: Impact Fees for Kelly and Debbie Dunn (PCCS, Inc).

We would like to request the impact fees for Phase I of our development be deferred over a 10 year period and the impact fees for building #2 in phase I in the development be deferred until the building is put into service as a storage facility.

For Phase I, the Impact fees total \$142,197. These fees are based on a footprint of 54,818 square feet. Net rentable square feet is 36,400.

The main building is 36,818 square feet. Building #2 has a 9,000 square foot print.

The city regulations allow for a deferment of the impact fees in 10.12 - DEFERRAL "Payments of impact fees may be deferred for land development activities that provide public benefit to residents of the town".

In doing their own research, a local bank found that there are no climate controlled storage facilities and that the present occupancy for mini-storage is greater than 92%. Therefore, there is a real need for additional storage in Pagosa Springs.

For building #2, until there is adequate demand, we want the building to be used for sports activity, including pickleball, basketball, volleyball, tennis and a climbing wall. There is a tremendous shortage of "court time" available in Pagosa Springs. We would like to work with the city to allowing for overflow for some of the leagues that are in need of additional capacity.

Should you have any additional questions or suggestions I can be reached at 575-932-9373 or at kellyodunn@mac.com.

Sincerely,

Kelly O. Dunn

284 Twincreek Circle
Pagosa Springs, Colorado 81147

August 4, 2016

Greg Shulte
Pagosa Springs Town Manager
P.O. Box 1859
Pagosa Springs, CO 81147

Mr. Shulte,

RE: Impact Fees for Kelly and Debbie Dunn (PCCS, Inc.).

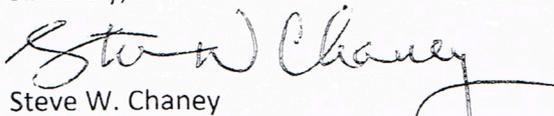
The Pagosa Springs Skyrockets Pickleball League would like to support Kelly and Debbie Dunn's request for the deferral of impact fees for Phase 1 of their development until the building is put into use as a storage facility.

Building #2 of Mr. and Mrs. Dunn's development is proposed to be used for sports activities including pickleball, until adequate demand for climate controlled storage develops. The availability of this facility would be a tremendous boon to the local residents and visitors who play pickleball.

As you know, the Ross Aragon Community Center currently allows the use of the Center's gymnasium for several hours, 3 days a week by pickleball players. During the summer months, the City also allows us to use South Park for outdoor pickleball play. While these two facilities provide considerable opportunity, the number of residents and visitors playing pickleball has grown significantly over the last several years frequently making the Community Center extremely crowded, especially during the months when outdoor play is not possible. Also, there is significant interest in pickleball among the local residents who work full time, who would like to be able to play in the evening and/or weekends (especially during the winter months) which is not possible at the Community Center.

Pickleball is one of if not the fastest growing sports in the country. A significant number of communities across the US and here in southwest Colorado are building or remodeling facilities to accommodate the growth of this sport. The availability of additional pickleball courts, especially indoor courts as proposed by Mr. Kelley, would provide a significant benefit to the residents of Pagosa Springs.

Sincerely,


Steve W. Chaney
Coordinator, Pagosa Skyrockets Pickleball League

cc: Mr. Kelley Dunn

August 1, 2016

Mr. Greg Schulte
Pagosa Springs Town Manager
P.O. Box 1859
Pagosa Springs, CO 81147

RE: Impact Fees for New Recreational Development

A request has come to my attention for the deferral of impact fees for a new recreational development planned by Mr. Kelly Dunn.

Although the Pagosa Springs area has significant outdoor recreational areas, there is a significant lack of indoor recreational facilities for the residents of Pagosa Springs and the surrounding area.

Mr. Dunn's development would be a public benefit to area residents and to tourists visiting the Pagosa area.

Please consider a deferral of impact fees for the needed development.

Sincerely,

Jan J. Cunningham
388 Lakewood St.
Pagosa Springs, CO 81147

From: **Lois Dacus** teqpan@yahoo.com
Subject: Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf
Date: July 27, 2016 at 9:06 AM
To: Kelly Dunn kellyodunn@mac.com

Dear Mr. Dunn,

We are excited about your building project and having the ability to play sports in your indoor facility on a year-round basis. We find that in Pagosa Springs, unless you are a true cold weather/snow enthusiast, it can be difficult to find fun physical activities that help us to stay strong, agile and well coordinated.

We hope that your project can go forward expeditiously so that we can all benefit from its use.

Sincerely,

Lois & Steve Dacus
9 Periwinkle Drive
Pagosa Springs CO 81147
(970) 398-1865
teqpan@yahoo.com

From: Kelly Dunn <kellyodunn@mac.com>
To: Pagosa Pickleball Group <pagosapickleball@googlegroups.com>
Sent: Wednesday, July 27, 2016 8:39 AM
Subject: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf

Good Morning,

Today I am delivering a letter to the city asking for a deferment of impact fees for our project.

We are proposing a building that would be used for sports activity. The city requires that a deferment be for "public benefit".

If possible, I would like to get a letter or an email stating that having a building for indoor sports activity is for the "public benefit".

Any support we can get to show that there is a public need for an indoor facility would be greatly appreciated.

If you have any questions, let me know.

Thanks,

Kelly Dunn

From: **den mitchell** pmitch1190@yahoo.com
Subject: Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf
Date: July 27, 2016 at 12:25 PM
To: Kelly Dunn kellyodunn@mac.com

Date: July 27, 2016

To: City Council of Pagosa Springs,
Pagosa Springs Colorado 81147

Subject: Request for Deferment of Impact Fees on the Kelly Dunn Building Project

Council Members:

We request that you carefully consider and grant relief of and deferment of "Impact Fees" for the above mentioned project. The building that Mr. Kelly Dunn is constructing will work to benefit the public, particularly the residents of Pagosa and Pagosa Lakes by providing much needed indoor recreation and exercise facilities. Presently, the City offers little and very limited facilities particularly for Senior Citizens.

There is a very obvious need in the Pagosa Springs area for additional indoor recreational facilities.

Thank You,

Dennis and Patricia Mitchell
56 Holly Tree Circle
Pagosa Springs Colorado 81147

From: Kelly Dunn <kellyodunn@mac.com>
To: Pagosa Pickleball Group <pagosapickleball@googlegroups.com>
Sent: Wednesday, July 27, 2016 8:39 AM
Subject: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf

Good Morning,

Today I am delivering a letter to the city asking for a deferment of impact fees for our project.

We are proposing a building that would be used for sports activity. The city requires that a deferment be for "public benefit".

If possible, I would like to get a letter or an email stating that having a building for indoor sports activity is for the "public benefit".

Any support we can get to show that there is a public need for an indoor facility would be greatly appreciated.

If you have any questions, let me know.

Thanks,

Kelly Dunn
575-932-9373
135-F Country Club #231

From: **Mark McNown** markflyhi@yahoo.com
Subject: Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf
Date: July 27, 2016 at 3:04 PM
To: Kelly Dunn kellyodunn@mac.com

Kelly your proposed indoor sports facility would be a huge benefit to the Pagosa area. The pickleball players are, at times close to 60 strong and only growing. In addition there are many many vacationers to the area looking for indoor activities excluding pickleball especially in the winter when outdoor play is not possible. I, among many, travel to destinations where pickleball is played. The potential for tournament play huge as the building would protect players from the elements. At present we play in the Ross Aragon community center where availability is difficult, especially in the winter months. We also play outside at the 8th street park weather permitting.

In addition to pickleball other sports would be available giving the youth in Pagosa a place to play a verity of sports when other facilities are in use.

I believe that this facility being proposed would definitely benefit all the residents, if not directly indirectly, in Pagosa Springs. Thank you, Mark McNown.

On Jul 27, 2016, at 8:39 AM, Kelly Dunn <kellyodunn@mac.com> wrote:

Good Morning,

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If you have any questions, let me know.

Thanks,

Kelly Dunn
575-932-9373
135-F Country Club #231
Pagosa Springs, Co 81147

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Kelly,
I think the idea of a sports facility for Pickleball is a great idea. I support it all the way. Thank you for spearheading the project.
Sincerely
Laura Metallo

Sent from my iPhone

On Jul 27, 2016, at 8:39 AM, Kelly Dunn <kellyodunn@mac.com> wrote:

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From: **Walt Tormohlen** walttor@gmail.com
Subject: Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf
Date: July 28, 2016 at 12:52 PM
To: Kelly Dunn kellyodunn@mac.com

To the City of Pagosa Springs

Speaking as 20 year residents we cannot understand the lack of support for the game of Pickle Ball the city has demonstrated. It is the only sports activity in town that consistently involves more than 30 folks, both local, visitors, and tourists on a nearly daily basis, year round.

The Ross Aragon Community Center allows play with limited times and requires the court lines be put down with tape then removed for each playing session. The South Park on 8th street Park allows play on the paved court but requires the nets be set up each play time. The court lines are permanent, thankfully. The nets, tape for the lines and other required items are provided by the players. No expense to the city.

The soon to be built Sports Facility at Harman Park is much needed and has the support of the players an residents we have spoken with. It will be of benefit to the entire community and is greatly needed. It is good to see the private sector help fill the needs of the community and we hope the City of Pagosa Springs will do all possible to insure the timely completion

Best regards, Judy and Walt Tormohlen

On Wed, Jul 27, 2016 at 8:39 AM, Kelly Dunn <kellyodunn@mac.com> wrote:
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From: Nancy Cole pagosa63anne@gmail.com
Subject: Pickleball courts
Date: July 29, 2016 at 12:44 PM
To: Kelly Dunn kellyodunn@mac.com

July

29, 2016
Greg Schulte

Both my husband and I are looking forward to the construction of an indoor sports facility for the people of Pagosa Springs, especially an area for pickleball. The town has not been receptive to the people who play pickleball to have a designated area that we can count on for play, particularly when the weather is bad. We would be able to set up tournaments and have people from other areas come to Pagosa to play. We have had numerous tourists who have come here and also want to play, they travel with their paddles. The need is there for more sports options and it would be a benefit to our community for all ages.

Will Dunbar and Nancy Cole

From: **Ingrid Knoll** ingridsabinaknoll@gmail.com
Subject: Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf
Date: July 29, 2016 at 11:32 PM
To: Kelly Dunn kellyodunn@mac.com

To whom it may concern,
I support Kelly Dunn's request for a deferment of impact fees for his proposed building that would be used for sports. The public benefit of this project is for the physical health of the community, especially seniors, as well as providing social interactions.

I have spoken to several visitors to Pagosa who were participating in organized Pickleball play at the community center gym. They reported that the only reason that they ended up coming to Pagosa on vacation was because we had Pickleball facilities. It has become such a popular sport for young and old alike that during the winter months, when we can not use the outdoor courts, it becomes so crowded that there are long wait times for players.

Kelly's facility would take some of the pressure off the community center, in their attempt to accommodate the numerous people interested in the sport.

Thank you for your consideration,
Ingrid Knoll

On Wednesday, July 27, 2016, Kelly Dunn <kellyodunn@mac.com> wrote:
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From: **Linda Reed** mynoseprints@gmail.com
Subject: **Re: Message From Pagosa Pickleball: Emailing - email to pickballers.pdf**
Date: July 30, 2016 at 6:40 AM
To: **Kelly Dunn** kellyodunn@mac.com

To the City of Pagosa Springs:

Would an indoor sports facility be of benefit here in PS? ABSOLUTELY There is a shortage of venues for residents to take advantage of sports activities. All age groups from youth to seniors would benefit from this facility. Pickleball is the No1 growing sport for seniors in the country. More and more communities are building and providing courts for just this sport...not to mention volleyball, basketball and tennis. Being a senior I would greatly appreciate having an indoor facility to play pickleball. Our seasons are fairly short and to play outdoors in the summer is difficult do to the heat and of course winter play outside isn't really feasible. An indoor facility would encourage seniors to get out and get some valuable exercise regardless of the weather. Part of a healthy lifestyle for seniors is exercise and breathing....and the opportunities provided by an indoor facility would be very conducive to a healthy lifestyle. Even using this building for walking would be a benefit for those unable to do more strenuous exercise.

I can see this building benefiting all age groups. The youth groups could benefit by having a facility where tournaments and competitions could take place. Even the youngest set could benefit by having "gym" time to interact socially with their peers regardless of the weather.

All in all this building would be of great benefit to all citizens of Pagosa Springs and I would urge you to waive any fees that might stand in the way of the completion of this project.

Linda Reed

On Wed, Jul 27, 2016 at 8:39 AM, Kelly Dunn <kellyodunn@mac.com> wrote:
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To know who I am I need to forget who they told me to be!!
To launch a balloon you must cut loose the sandbags!!

We have out grown rec facilities in Pagosa and are in much need of a place that shares our common interest. We are in much anticipation of a recreational facilities.

Gary Snider
120 Cloud Cap

On Jul 27, 2016 4:39 PM, "Kelly Dunn" <kellyodunn@mac.com> wrote:

>
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>
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AGENDA DOCUMENTATION

NEW BUSINESS: IV.3

PAGOSA SPRINGS TOWN COUNCIL

SEPTEMBER 6, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: ORDINANCE 848 – THE FIRST READING OF AN AUTHORIZING ORDINANCE FOR THE SOUTH 8TH STREET PROJECT FINANCING ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

At the July 21st Town Council meeting, the Council approved moving forward with financing the S. 8th Street Project through a lease purchase mechanism, specifically a Public Offering in the amount of \$2.685 million that included the refinancing of the Lewis Street Project.

At the August 2nd meeting, the Council approved a Reimbursement Resolution (Resolution 2016-12) that allows the Town to reimburse itself from the proceeds of the financing for the funds advanced to get the work started as soon as possible.

The next step in the process is to hold a First Reading for an Authorizing Ordinance for the financing of the South 8th Street Project. In summary, this type of Ordinance (see Exhibit A) authorizes:

- A site lease
- A lease purchase agreement
- The issuance of Certificates of Participation (COPs) in an amount not to exceed \$2.8 million
- Town Officials to take all actions necessary to carry out the contemplated transaction

A further issue to consider is whether to issue COPs that are rated or non-rated. There are pros and cons to both. Getting a rating (assuming it is favorable) does help in the marketing of the COPs, but it does cost money to get the rating and there is always a certain amount of uncertainty as to what the rating will be. The last time the Town secured a rating was in 2011. At that time the Town rated "A2." There are a few factors to consider when investigating an investment grade rating:

- Our liquidity (i.e. cash to expenditures, cash to debt, etc) and other financial and economical metrics suggest a low "A" category rating is within reach. The City of Ouray recently achieving an "A" rating on their upcoming sales tax revenue bond also supports the Town's reaching an "A" rating.
- A credit rating provides approximately \$35,000 in present value interest cost savings over the non-rated option, nearly three times the \$12,000 cost for a rating (Exhibit B).
- A credit rating does extend the financing timeline as shown in the attached draft schedule of events (Exhibit C).
- With an "A" category rating, the Town's COPs are eligible for bond insurance which includes a policy to cover the debt service reserve requirement. Rather than funding a \$175,000 debt service reserve (see Exhibit B), the Town pays an upfront premium of approximately \$6,000.

- A non-rated offering would fare better in the market if the Town were to commit to a \$175,000 debt service reserve (equivalent to one year of debt service) as a protective measure.
- The risk is the Town doesn't receive an "A" category rating. However, the Town may pay 75% of the rating fee (\$8,000) to get an indication of rating and then choose to publish (and pay the balance) or not publish.
- A rating now could prove useful (assuming it is favorable) in future financial transactions.
- A rating below "A" is apparently not valuable as the underwriter has stated we'd probably get better rates as non-rated.

A full timeline is attached as Exhibit C.

ATTACHMENTS:

- Exhibit A: Ordinance 848
- Exhibit B: Revised Financing Schedules
- Exhibit C: Timetable
-

The timeframe to accomplish the financing is expected to be accomplished by mid-November (See Exhibit C).

FISCAL IMPACT

As noted in earlier staff reports, the cost to do the South 8th Street Project as well as refinance the Lewis Street Project is estimated at \$2.685 million. It is the recommendation of bond counsel and the underwriter to move that amount to \$2.8 million to account for the potential debt service reserve buyers would like to see. Regardless, the annual debt service payment is relatively the same at approximately \$170,000 (see Exhibit B).

RECOMMENDATION:

Staff believes the Town Council has two actions related to this financing. Possible motions for the Town Council to consider for each are:

Action #1

1. **Move to direct staff to pursue securing an investment grade rating for the Town of Pagosa Springs and appropriate funding from General Fund Reserves in an amount not to exceed \$12,000.**
2. **Move to NOT pursue an investment grade rating for the Town of Pagosa Springs.**
3. **Direct staff otherwise.**

Action #2

1. **Move to APPROVE the First Reading of Ordinance 848.**
2. **Move to DENY the First Reading of Ordinance 848.**
3. **Direct staff otherwise.**

TOWN OF PAGOSA SPRINGS, COLORADO
ORDINANCE NO. 848
(SERIES 2016)

AN ORDINANCE AUTHORIZING A SITE LEASE AND LEASE PURCHASE AGREEMENT BETWEEN THE TOWN OF PAGOSA SPRINGS, COLORADO AND UMB BANK, N.A. (SOLELY IN ITS CAPACITY AS TRUSTEE) FOR THE PURPOSE OF FINANCING STREET IMPROVEMENTS; APPROVING NOT TO EXCEED \$2,800,000 PRINCIPAL AMOUNT OF CERTIFICATES OF PARTICIPATION, SERIES 2016 IN CONNECTION THEREWITH; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; AND RELATED MATTERS

WHEREAS, the Town of Pagosa Springs, Colorado (the “Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter (the “Charter”); and

WHEREAS, pursuant to Section 1.4 of the Charter, the Town has all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado (the “State”); and

WHEREAS, pursuant to Section 10.6 of the Charter, the Town has the full authority, power and control over all Town-owned property, including but not limited to all power and authority to sell and lease such property; and

WHEREAS, in order to provide for the capital asset needs of the Town, the Town Council of the Town (the “Council”) has determined and hereby determines that it is necessary and in the best interests of the Town and its citizens that the Town undertake lease purchase financing of sites, buildings, equipment and other property for use by the Town for governmental or proprietary purposes; and

WHEREAS, the Council has determined that it is in the best interests of the Town and its residents to undertake a certain road reconstruction and improvement project (the “Project”); and

WHEREAS, the Town is the fee simple owner of the land and improvements constituting the Pagosa Springs Town Hall located at 551 Hot Springs Boulevard, Pagosa Springs, Colorado (the “Town Hall”); and

WHEREAS, for the purpose of providing funds for the construction of the Project, Certificates of Participation, Series 2016 (the “Series 2016 Certificates”) in an aggregate amount not to exceed \$2,800,000 will be sold and executed and delivered pursuant to an Indenture of Trust (the “Indenture”) entered into by UMB Bank, n.a. (the “Trustee”); and

WHEREAS, for the purpose of providing funds for the construction of the Project, the Council has determined to enter into a Site Lease (the “Site Lease”) of the Town’s interest in the Town Hall (the “Leased Property”) to the Trustee; and

WHEREAS, for the purpose of providing funds for the construction of the Project, the Council has determined to enter into a Lease Purchase Agreement (the “Lease”) with the Trustee with respect to the Leased Property; and

WHEREAS, in order to facilitate the sale of the Series 2016 Certificates, there will be prepared, executed and distributed a Preliminary Official Statement (the “Preliminary Official Statement”) and a final Official Statement (the “Official Statement”) summarizing the documents filed for public inspection with the Town Clerk in connection with this Ordinance (the “Ordinance”) and containing information about the Town, the Leased Property and other matters material to potential purchasers of the Series 2016 Certificates. At such time as the Preliminary Official Statement is available in substantially final form the Town Manager is authorized to certify that it is in near-final form and to authorize its distribution by UMB Bank, n.a. (solely in its capacity as underwriter) (the “Underwriter”).

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows

Section 1. Ratification of Actions. All action heretofore taken, not inconsistent with the provisions of this Ordinance, by the Council or the officers of the Town, directed toward the implementation of the Project, including the preparation of the forms of Site Lease, Lease, Indenture and Official Statement and related documents, are hereby ratified, approved and confirmed.

Section 2. Findings; Authorizations. The Council hereby finds and determines, pursuant to the Town’s home rule powers and the laws of the State, that the Project is necessary, convenient, and in furtherance of the governmental purposes of the Town and in the best interests of the Town and its citizens; and the Council hereby authorizes the Project.

Section 3. Approval and Execution of Documents; Authorized Officers. The Site Lease, the Lease, the Indenture, the Certificate Purchase Agreement between the Town and the Underwriter (the “Certificate Purchase Agreement”) and the Official Statement, in substantially the forms filed in the office of the Town Clerk prior to the final adoption of this Ordinance, are in all respects approved, authorized and confirmed, and the Mayor of the Town is hereby authorized and directed to execute and deliver, and the Town Clerk of the Town or any Deputy or Assistant Town Clerk are hereby authorized and directed to affix the seal of the Town to, and attest, the Site Lease and Lease in substantially the forms filed with the Town Clerk, with such changes as are not inconsistent with the intent of this Ordinance and are approved by bond counsel or the Town Attorney. The Council hereby designates the Town Manager and the Town Clerk/Finance Director (and any persons authorized by law to act on their behalf in their absence) to act as “Authorized Officers” under the Lease and any related documents. In the event that bond insurance or other credit enhancement is deemed advantageous to the Town in connection with the Series 2016 Certificates by the Authorized Officers, they may insert provisions, not inconsistent herewith, required by the provider of such credit enhancement. Prior to the execution of the Site Lease, the Lease or any other instrument contemplated by this Ordinance, or the issuance of the Series 2016 Certificates, the final Base Rentals due under the Site Lease and Lease, and the principal amount, interest rates and other terms of the Series 2016 Certificates, not inconsistent herewith, shall be approved by a resolution of the Council (a

“Supplemental Resolution”) or a certificate executed by the Town Manager (the “Final Terms Certificate”).

Section 4. The Series 2016 Certificates. The Council hereby acknowledges and consents to the sale, execution and delivery of the Series 2016 Certificates pursuant to the Indenture. The Council hereby acknowledges and approves the forms, terms and provisions of the Series 2016 Certificates contained in the Indenture, in substantially the form filed with the Town Clerk prior to the final adoption of this Ordinance.

The Series 2016 Certificates shall be issued in a principal amount not to exceed \$2,800,000, shall mature not later than December 1, 2042, shall bear interest at a net effective interest rate not exceeding 4.75%, and may be made subject to redemption at redemption prices which may include redemption premiums not exceeding 110% of their principal amount, all as may be approved by Supplemental Resolution or Final Terms Certificate. The proceeds of the Series 2016 Certificates shall be used to accomplish the Project in the manner required under the Site Lease, the Lease and the Indenture.

Section 5. Additional Documents. The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town in connection with the matters authorized by this Ordinance. The Mayor and the Authorized Officers are hereby authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents and other papers and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Ordinance. The appropriate officers of the Town are also authorized to execute on behalf of the Town agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this Ordinance.

Section 6. No General Obligation or Other Indebtedness. The obligation of the Town to make rental payments under the Lease is subject to annual appropriation by the Council and constitutes an undertaking of the Town to make current expenditures. No provision of this Ordinance, the Lease, the Indenture or the Series 2016 Certificates shall be construed as constituting or giving rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any home rule, constitutional or statutory debt limitation nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the current fiscal year. The Town shall have no obligation to make any payment with respect to the Series 2016 Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments are subject to termination and nonrenewal by the Town in accordance with the provisions of the Lease.

Section 7. Expression of Need; Reasonable Rentals. It is hereby found and determined that, under all of the circumstances of the transactions authorized hereby or contemplated by the Site Lease and the Lease, including the Town’s options to terminate the Site Lease and the Lease as provided therein, the reasonable value of the leasehold interest granted to the Trustee for a term not exceeding 40 years under the Site Lease will not exceed the amount paid by the Trustee for such interest.

The Town hereby declares its current need for the Leased Property, which is considered to be essential to the governmental operations of the Town. It is hereby declared to be the present intention and expectation of the Council that the Lease will be renewed annually until all of the Leased Property is acquired by the Town pursuant to the Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the Town.

The Council hereby determines and declares that the Base Rentals due under the Lease, so long as they are within the limits provided in this Ordinance, will represent the fair value of the use of the Leased Property, and that the Purchase Option Price (as defined in the Lease) will represent, as of any date upon which the Town may exercise its option to purchase the Trustee's interest in such Leased Property, the fair purchase price thereof. The Council further hereby determines and declares that the Base Rentals due under the Lease and authorized hereby will not exceed a reasonable amount so as to place the Town under an economic or practical compulsion to renew the Lease or to exercise its option to purchase the Trustee's interest in the Leased Property pursuant to the Lease. In making such determinations, the Council has given consideration to the cost of acquiring and installing the Leased Property, the uses and purposes for which the Leased Property is employed by the Town, the term of the Site Lease, the use of the Leased Property pursuant to the terms and provisions of the Site Lease and the Lease, the Town's option to purchase the Trustee's leasehold interest in the Leased Property, the Town's right to cause the termination of the Lease by declining to appropriate funds, and the expected eventual vesting, release or reversion in or to the Town of both title to and possession of the Leased Property, free and clear of the Site Lease. The Council hereby determines and declares that the leasing of the Leased Property pursuant to the Lease will result in facilities of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Leased Property were performed by the Town other than pursuant to the Lease. The Council hereby determines and declares that, after execution and delivery of the Lease, the maximum duration of the Lease, or the portion thereof allocable to any item of Leased Property separately identified in the Lease, will not exceed the weighted average useful life of such item or items of Leased Property.

Section 8. Severability. If any section, paragraph, clause or provision of this Ordinance or the Lease (other than provisions as to the payment of Base Rentals by the Town during the term of the Lease, provisions for the quiet enjoyment of the Leased Property by the Town during the term of the Lease, and provisions for the transfer of the Leased Property to the Town under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. Repealer of Measures. All acts, orders, resolutions, ordinances or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof heretofore repealed.

Section 10. Qualified Tax-Exempt Obligation. The Town Council hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 11. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

Section 12. Effective Date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 6th DAY OF SEPTEMBER, 2016.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Mayor

Attest:

Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 22nd DAY OF SEPTEMBER, 2016.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Mayor

Attest:

Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. ____ (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the ____ day of _____, 2016, and was published by title only, along with a statement indicating the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2016, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of September, 2016.

Town Clerk

(S E A L)

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. ____ (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the __ day of _____, 2016, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of September, 2016.

Town Clerk

(S E A L)

PRELIMINARY

Town of Pagosa Springs, Colorado

Certificates of Participation, Series 2016

Not Rated - DSR - As of 8.30.16

Sources & Uses

Dated 10/01/2016 | Delivered 10/01/2016

Sources Of Funds

Par Amount of Bonds	\$2,690,000.00
Planned Issuer Equity contribution	176,000.00

Total Sources **\$2,866,000.00**

Uses Of Funds

Total Underwriter's Discount (1.200%)	32,280.00
Costs of Issuance	103,500.00
Deposit to Debt Service Reserve Fund (DSRF)	176,205.00
Deposit to Project Construction Fund	2,100,000.00
Deposit to Payoff 2011 Lease Purchase Agmt	450,000.00
Rounding Amount	4,015.00

Total Uses **\$2,866,000.00**

FOR DISCUSSION PURPOSES ONLY
8/31/2016 | 11:20 AM

Town of Pagosa Springs, Colorado

Certificates of Participation, Series 2016

Not Rated - DSR - As of 8.30.16

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
12/01/2016	-	-	11,563.75	11,563.75
12/01/2017	105,000.00	1.000%	69,382.50	174,382.50
12/01/2018	105,000.00	1.100%	68,332.50	173,332.50
12/01/2019	105,000.00	1.250%	67,177.50	172,177.50
12/01/2020	110,000.00	1.450%	65,865.00	175,865.00
12/01/2021	110,000.00	1.600%	64,270.00	174,270.00
12/01/2022	110,000.00	1.800%	62,510.00	172,510.00
12/01/2023	115,000.00	2.000%	60,530.00	175,530.00
12/01/2024	115,000.00	2.100%	58,230.00	173,230.00
12/01/2025	120,000.00	2.200%	55,815.00	175,815.00
12/01/2026	120,000.00	2.300%	53,175.00	173,175.00
12/01/2027	125,000.00	2.500%	50,415.00	175,415.00
12/01/2028	125,000.00	2.700%	47,290.00	172,290.00
12/01/2029	130,000.00	2.900%	43,915.00	173,915.00
12/01/2030	135,000.00	3.000%	40,145.00	175,145.00
12/01/2031	140,000.00	3.100%	36,095.00	176,095.00
12/01/2032	140,000.00	3.200%	31,755.00	171,755.00
12/01/2033	145,000.00	3.300%	27,275.00	172,275.00
12/01/2034	150,000.00	3.400%	22,490.00	172,490.00
12/01/2035	155,000.00	3.500%	17,390.00	172,390.00
12/01/2036	160,000.00	3.600%	11,965.00	171,965.00
12/01/2037	170,000.00	3.650%	6,205.00	176,205.00
Total	\$2,690,000.00	-	\$971,791.25	\$3,661,791.25

Yield Statistics

Bond Year Dollars	\$32,408.33
Average Life	12.048 Years
Average Coupon	2.9985845%
Net Interest Cost (NIC)	3.0981885%
True Interest Cost (TIC)	3.0780824%
Bond Yield for Arbitrage Purposes	2.9549321%
All Inclusive Cost (AIC)	3.4877390%

IRS Form 8038

Net Interest Cost	2.9985845%
Weighted Average Maturity	12.048 Years

Town of Pagosa Springs, Colorado

Certificates of Participation, Series 2016

Not Rated - DSR - As of 8.30.16

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	DSR	Net New D/S
12/01/2016	-	-	11,563.75	11,563.75	-	11,563.75
12/01/2017	105,000.00	1.000%	69,382.50	174,382.50	(1,321.54)	173,060.96
12/01/2018	105,000.00	1.100%	68,332.50	173,332.50	(1,321.54)	172,010.96
12/01/2019	105,000.00	1.250%	67,177.50	172,177.50	(1,321.54)	170,855.96
12/01/2020	110,000.00	1.450%	65,865.00	175,865.00	(1,321.54)	174,543.46
12/01/2021	110,000.00	1.600%	64,270.00	174,270.00	(1,321.54)	172,948.46
12/01/2022	110,000.00	1.800%	62,510.00	172,510.00	(1,321.54)	171,188.46
12/01/2023	115,000.00	2.000%	60,530.00	175,530.00	(1,321.54)	174,208.46
12/01/2024	115,000.00	2.100%	58,230.00	173,230.00	(1,321.54)	171,908.46
12/01/2025	120,000.00	2.200%	55,815.00	175,815.00	(1,321.54)	174,493.46
12/01/2026	120,000.00	2.300%	53,175.00	173,175.00	(1,321.54)	171,853.46
12/01/2027	125,000.00	2.500%	50,415.00	175,415.00	(1,321.54)	174,093.46
12/01/2028	125,000.00	2.700%	47,290.00	172,290.00	(1,321.54)	170,968.46
12/01/2029	130,000.00	2.900%	43,915.00	173,915.00	(1,321.54)	172,593.46
12/01/2030	135,000.00	3.000%	40,145.00	175,145.00	(1,321.54)	173,823.46
12/01/2031	140,000.00	3.100%	36,095.00	176,095.00	(1,321.54)	174,773.46
12/01/2032	140,000.00	3.200%	31,755.00	171,755.00	(1,321.54)	170,433.46
12/01/2033	145,000.00	3.300%	27,275.00	172,275.00	(1,321.54)	170,953.46
12/01/2034	150,000.00	3.400%	22,490.00	172,490.00	(1,321.54)	171,168.46
12/01/2035	155,000.00	3.500%	17,390.00	172,390.00	(1,321.54)	171,068.46
12/01/2036	160,000.00	3.600%	11,965.00	171,965.00	(1,321.54)	170,643.46
12/01/2037	170,000.00	3.650%	6,205.00	176,205.00	(177,526.54)	(1,321.54)
Total	\$2,690,000.00	-	\$971,791.25	\$3,661,791.25	(203,957.34)	\$3,457,833.91

PRELIMINARY

Town of Pagosa Springs, Colorado

Certificates of Participation, Series 2016

Not Rated - DSR - As of 8.30.16

Detail Costs Of Issuance

Dated 10/01/2016 | Delivered 10/01/2016

COSTS OF ISSUANCE DETAIL

Bond Counsel	\$50,000.00
Bank Counsel	\$15,000.00
Local Counsel	\$8,000.00
Trustee & Counsel Fees	\$5,000.00
POS/Official Statement	\$1,500.00
Title Insurance/Opinion	\$12,000.00
Miscellaneous	\$12,000.00
TOTAL	\$103,500.00

FOR DISCUSSION PURPOSES ONLY
8/31/2016 | 11:20 AM

PRELIMINARY

Town of Pagosa Springs, Colorado

Certificate of Participation, Series 2016

A3 - DSR - As of 8.30.16

Sources & Uses

Dated 10/01/2016 | Delivered 10/01/2016

Sources Of Funds

Par Amount of Bonds	\$2,690,000.00
Planned Issuer Equity contribution	172,000.00

Total Sources **\$2,862,000.00**

Uses Of Funds

Total Underwriter's Discount (1.200%)	32,280.00
Costs of Issuance	101,500.00
Deposit to Debt Service Reserve Fund (DSRF)	174,155.00
Deposit to Project Construction Fund	2,100,000.00
Deposit to Payoff 2011 Lease Purchase Agmt	450,000.00
Rounding Amount	4,065.00

Total Uses **\$2,862,000.00**

FOR DISCUSSION PURPOSES ONLY
8/31/2016 | 11:25 AM

Town of Pagosa Springs, Colorado

Certificate of Participation, Series 2016

A3 - DSR - As of 8.30.16

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
12/01/2016	-	-	10,826.25	10,826.25
12/01/2017	105,000.00	0.750%	64,957.50	169,957.50
12/01/2018	105,000.00	0.900%	64,170.00	169,170.00
12/01/2019	110,000.00	1.050%	63,225.00	173,225.00
12/01/2020	110,000.00	1.250%	62,070.00	172,070.00
12/01/2021	110,000.00	1.400%	60,695.00	170,695.00
12/01/2022	115,000.00	1.600%	59,155.00	174,155.00
12/01/2023	115,000.00	1.750%	57,315.00	172,315.00
12/01/2024	115,000.00	1.850%	55,302.50	170,302.50
12/01/2025	120,000.00	2.000%	53,175.00	173,175.00
12/01/2026	120,000.00	2.100%	50,775.00	170,775.00
12/01/2027	125,000.00	2.350%	48,255.00	173,255.00
12/01/2028	125,000.00	2.550%	45,317.50	170,317.50
12/01/2029	130,000.00	2.750%	42,130.00	172,130.00
12/01/2030	135,000.00	2.850%	38,555.00	173,555.00
12/01/2031	135,000.00	3.000%	34,707.50	169,707.50
12/01/2032	140,000.00	3.100%	30,657.50	170,657.50
12/01/2033	145,000.00	3.200%	26,317.50	171,317.50
12/01/2034	150,000.00	3.300%	21,677.50	171,677.50
12/01/2035	155,000.00	3.400%	16,727.50	171,727.50
12/01/2036	160,000.00	3.500%	11,457.50	171,457.50
12/01/2037	165,000.00	3.550%	5,857.50	170,857.50
Total	\$2,690,000.00	-	\$923,326.25	\$3,613,326.25

Yield Statistics

Bond Year Dollars	\$32,273.33
Average Life	11.998 Years
Average Coupon	2.8609572%
Net Interest Cost (NIC)	2.9609778%
True Interest Cost (TIC)	2.9385006%
Bond Yield for Arbitrage Purposes	2.8162162%
All Inclusive Cost (AIC)	3.3371425%

IRS Form 8038

Net Interest Cost	2.8609572%
Weighted Average Maturity	11.998 Years

Town of Pagosa Springs, Colorado

Certificate of Participation, Series 2016

A3 - DSR - As of 8.30.16

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	DSR	Net New D/S
12/01/2016	-	-	10,826.25	10,826.25	-	10,826.25
12/01/2017	105,000.00	0.750%	64,957.50	169,957.50	(1,306.16)	168,651.34
12/01/2018	105,000.00	0.900%	64,170.00	169,170.00	(1,306.16)	167,863.84
12/01/2019	110,000.00	1.050%	63,225.00	173,225.00	(1,306.16)	171,918.84
12/01/2020	110,000.00	1.250%	62,070.00	172,070.00	(1,306.16)	170,763.84
12/01/2021	110,000.00	1.400%	60,695.00	170,695.00	(1,306.16)	169,388.84
12/01/2022	115,000.00	1.600%	59,155.00	174,155.00	(1,306.16)	172,848.84
12/01/2023	115,000.00	1.750%	57,315.00	172,315.00	(1,306.16)	171,008.84
12/01/2024	115,000.00	1.850%	55,302.50	170,302.50	(1,306.16)	168,996.34
12/01/2025	120,000.00	2.000%	53,175.00	173,175.00	(1,306.16)	171,868.84
12/01/2026	120,000.00	2.100%	50,775.00	170,775.00	(1,306.16)	169,468.84
12/01/2027	125,000.00	2.350%	48,255.00	173,255.00	(1,306.16)	171,948.84
12/01/2028	125,000.00	2.550%	45,317.50	170,317.50	(1,306.16)	169,011.34
12/01/2029	130,000.00	2.750%	42,130.00	172,130.00	(1,306.16)	170,823.84
12/01/2030	135,000.00	2.850%	38,555.00	173,555.00	(1,306.16)	172,248.84
12/01/2031	135,000.00	3.000%	34,707.50	169,707.50	(1,306.16)	168,401.34
12/01/2032	140,000.00	3.100%	30,657.50	170,657.50	(1,306.16)	169,351.34
12/01/2033	145,000.00	3.200%	26,317.50	171,317.50	(1,306.16)	170,011.34
12/01/2034	150,000.00	3.300%	21,677.50	171,677.50	(1,306.16)	170,371.34
12/01/2035	155,000.00	3.400%	16,727.50	171,727.50	(1,306.16)	170,421.34
12/01/2036	160,000.00	3.500%	11,457.50	171,457.50	(1,306.16)	170,151.34
12/01/2037	165,000.00	3.550%	5,857.50	170,857.50	(175,461.16)	(4,603.66)
Total	\$2,690,000.00	-	\$923,326.25	\$3,613,326.25	(201,584.36)	\$3,411,741.89

PRELIMINARY

Town of Pagosa Springs, Colorado

Certificate of Participation, Series 2016

A3 - DSR - As of 8.30.16

Detail Costs Of Issuance

Dated 10/01/2016 | Delivered 10/01/2016

COSTS OF ISSUANCE DETAIL

Bond Counsel	\$50,000.00
Bank Counsel	\$15,000.00
Local Counsel	\$8,000.00
Trustee & Counsel Fees	\$5,000.00
POS/Official Statement	\$1,500.00
Title Insurance/Opinion	\$12,000.00
Miscellaneous	\$10,000.00
TOTAL	\$101,500.00

FOR DISCUSSION PURPOSES ONLY
8/31/2016 | 11:25 AM

Town of Pagosa Springs, Colorado

Certificate of Participation, Series 2016

A3 - DSR - As of 8.30.16

Cash Flow Comparison @ 3.3371425%

DATE	New Cashflow	Old Cashflow	Savings	PV Factor	PV Savings
12/01/2016	10,826.25	11,563.75	737.50	0.9944992x	733.44
12/01/2017	169,957.50	174,382.50	4,425.00	0.9621239x	4,292.92
12/01/2018	169,170.00	173,332.50	4,162.50	0.9308025x	3,906.79
12/01/2019	173,225.00	172,177.50	(1,047.50)	0.9005008x	(913.58)
12/01/2020	172,070.00	175,865.00	3,795.00	0.8711855x	3,333.73
12/01/2021	170,695.00	174,270.00	3,575.00	0.8428246x	3,038.24
12/01/2022	174,155.00	172,510.00	(1,645.00)	0.8153870x	(1,318.49)
12/01/2023	172,315.00	175,530.00	3,215.00	0.7888426x	2,557.28
12/01/2024	170,302.50	173,230.00	2,927.50	0.7631623x	2,252.80
12/01/2025	173,175.00	175,815.00	2,640.00	0.7383180x	1,965.42
12/01/2026	170,775.00	173,175.00	2,400.00	0.7142825x	1,728.58
12/01/2027	173,255.00	175,415.00	2,160.00	0.6910295x	1,505.07
12/01/2028	170,317.50	172,290.00	1,972.50	0.6685334x	1,329.68
12/01/2029	172,130.00	173,915.00	1,785.00	0.6467697x	1,164.11
12/01/2030	173,555.00	175,145.00	1,590.00	0.6257145x	1,003.18
12/01/2031	169,707.50	176,095.00	6,387.50	0.6053448x	3,873.65
12/01/2032	170,657.50	171,755.00	1,097.50	0.5856382x	648.10
12/01/2033	171,317.50	172,275.00	957.50	0.5665731x	547.02
12/01/2034	171,677.50	172,490.00	812.50	0.5481286x	449.07
12/01/2035	171,727.50	172,390.00	662.50	0.5302846x	354.25
12/01/2036	171,457.50	171,965.00	507.50	0.5130215x	262.53
12/01/2037	170,857.50	176,205.00	5,347.50	0.4963204x	2,655.51
Total	\$3,613,326.25	\$3,661,791.25	\$48,465.00	-	\$35,369.30

Issues in New Cash Flow :
S2016 A3 DSR

Issues in Old Cash Flow :
S2016 NR DSR



Town of Pagosa Springs, Colorado

Certificates of Participation, Series 2016

TIMELINE OF EVENTS *

September 2016							October 2016						
S	M	T	W	Th	F	S	S	M	T	W	Th	F	S
28	29	30	31	1	2	3	1	2	3	4	5	6	7
4	5	6	7	8	9	10	8	9	10	11	12	13	14
11	12	13	14	15	16	17	15	16	17	18	19	20	21
18	19	20	21	22	23	24	22	23	24	25	26	27	28
25	26	27	28	29	30	31	29	30	31				

<u>Completion Date</u>	<u>Event</u>	<u>Responsible Party</u>
8/2/2016 Complete	Adopt Reimbursement Resolution	Town
8/11/2016 Complete	Due diligence questionnaire distributed	Kutak
8/29/2016 Complete	Draft Ordinance distributed	Kutak
9/1/2016	Due diligence questionnaire returned	Town
9/6/2016	Town Council Meeting - Ordinance 1st Reading	Town
9/12/2016	Publication Requirement Deadline - at least 10 days prior to second reading	Town
9/16/2016	First draft of Preliminary Official Statement ("POS")	Kutak
Wk of 9/19/2016	Due diligence conference call - POS	All
9/22/2016	Town Council Meeting - Ordinance 2nd Reading & Adoption	Town
Wk of 9/26/2016	Credit package sent to Standard & Poor's ("S&P") Rating Agency	UMB
Wk of 10/10/2016	Presentation/conference call with S&P	Town/UMB
Wk of 10/10/2016	Presentation/conference call with S&P	Town/UMB
Wk of 10/17/2016	Rating received and POS posted electronically	Town/UMB
Wk of 10/31/2016	Marketing of COP, Series 2016	UMB
Wk of 11/14/2016	Closing of COP, Series 2016	All



AGENDA DOCUMENTATION

OLD BUSINESS: V.1

PAGOSA SPRINGS TOWN COUNCIL
SEPTEMBER 6, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: ORDINANCE 847 (SECOND READING) – REVISING MARIJUANA ORDINANCE

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE / BACKGROUND

The Town Council is authorized to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement of such Ordinances. In 2015 by Ordinance No. 825 (Series 2015), the Town adopted specific standards and procedures for local licensing of marijuana-related businesses and establishments. The Town issued its first license in December 2015 and subsequent to that date an additional two applications were submitted for review. The Town, acting as the Licensing Authority, approved both licenses on April 6, 2016.

At that meeting there were significant discussions about the original intent of the Ordinance and how to administer the 70 / 30 rule provided for in the Ordinance in regards to the sourcing of bud leaf product for sale. The Town Council has asked Town staff to study whether certain amendments to the requirements in Article 6 of the Town Code for marijuana-related businesses and establishments are necessary and appropriate, including but not limited to the requirement for marijuana establishments to obtain 70% of their marijuana inventory from a cultivation facility located within Archuleta County.

Consequently, the Council felt it was in the best interest of the community to temporarily suspend the processing of all applications for marijuana-related businesses and establishments until such time as the Town can study the need for additional changes to the Municipal Code related to the application, licensing, and operation requirements for marijuana-related businesses and establishments. Ordinance 839 suspended the process until September 6, 2016.

During the August 18th meeting, the Town Council came to consensus on items related to the 70% rule as well as changes to time limits and hours of operation. The Council clarified the Ordinance regarding the specific items below;

- Limit the amount of time to get a license issued to six months – 6.5.1.5(3)(c)(iv)
- Limit the number of facilities to three either west or east of 14th Street – 6.5.1.8
- The limitation of three medical / retail establishments was clarified as to the definition of “facility” - 6.5.1.4(2) and “co-location” – 6.5.1.10(g)
- Extend the permissible time of operation to 9:00 pm – 6.5.1.10(c)
- Not permitting medical or retail stores to sell only marijuana products and require them to have four pounds of bud/flower and trim/shake for sale – 6.5.1.10(u)

There are no pending marijuana establishment applications at the time of this writing.

ATTACHMENTS

- Proposed Ordinance 847 (clean and red-lined)

FISCAL IMPACT

There are no immediate fiscal impacts for the Town.

RECOMMENDATIONS

Possible actions by the Town Council include:

- 1. Move to approve the Second Reading of Ordinance 847**
- 2. Move to NOT approve the Second Reading of Ordinance 847**
- 3. Direct staff**

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 847
(SERIES 2016)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
REPEALING AND READOPTING CHAPTER 6, ARTICLE 5 OF
THE PAGOSA SPRINGS MUNICIPAL CODE REGARDING THE
REGULATION AND LICENSING OF MARIJUANA BUSINESS
ESTABLISHMENTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of The Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012; and

WHEREAS, on November 7, 2000, the voters of the State of Colorado approved Amendment 20 enacted as Article XVIII, Section 14 of The Colorado Constitution (“Amendment 20”), which authorizes, subject to certain limitations, the medical use of marijuana by patients who have been advised by their physician, in a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with the patient’s debilitating medical condition; and

WHEREAS, the General Assembly enacted The Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, “Colorado Medical Marijuana Code”) to implement Amendment 20 to The Colorado Constitution authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of The Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of The Medical Marijuana Code, Colorado voters enacted Amendment 64 to The Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as “retail” marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted The Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, “Colorado Retail Marijuana Code”) governing retail marijuana establishments and use as more particularly described in The Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of The Colorado Retail Marijuana Code, The Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, pursuant to Amendment 64, and The Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), municipalities may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of The Retail Marijuana Code; and

WHEREAS, by Ordinance No. 825 (Series 2015) adopted on final reading on May 21, 2015, and Ordinance No. 830 (Series 2015) the Town Council enacted and amended Article 5 of Chapter 6 of The Pagosa Springs Municipal Code for the regulation and licensing of marijuana business establishments; and

WHEREAS, the Town Council finds it is in the interest of public health, safety and welfare that the Council amend the Town regulations concerning the licensing of certain medical and retail marijuana businesses; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

I. Repeal and Readoption of Article 5, Chapter 6. Article 5, Chapter 6 of The Pagosa Springs Municipal Code is repealed and readopted as provided in Exhibit 1 attached hereto and incorporated herein.

II. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

III. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

IV. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF ____, 2016.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF ____, 2016.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 847 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the _____ day of _____, 2016, and was published by title only, along with a statement indicating that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2016, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this __ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 847 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the _____ day of _____, 2016, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this __ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

**CHAPTER 6
BUSINESS REGULATIONS**

**ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS**

Part 1. GENERAL

Sec. 6.5.1.1 Title

These regulations shall be known and referred to as the “Pagosa Springs Marijuana Licensing Regulations” (referred to herein as the “Regulations”).

Sec. 6.5.1.2 Authority

- (1) Section 14 of Article XVIII of The Colorado Constitution permits limited medical uses of marijuana under Colorado law.
- (2) Section 16, Article XVIII of The Colorado Constitution permits personal use of marijuana by persons aged twenty-one (21) years and older under Colorado law.
- (3) The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. and The Colorado Department of Revenue’s Medical Marijuana Rules adopted at 1 CCR 212-1, Series 100 through 1400 (The Colorado Medical Marijuana Code and The Colorado Medical Marijuana Rules are collectively referred to as the “Colorado Medical Marijuana Code”).
- (4) The Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. and The Colorado Department of Revenue’s Retail Marijuana Rules adopted at 1 CCR 212-2, Series 100 through 1400 (The Colorado Retail Marijuana Code and The Retail Marijuana Rules are collectively referred to as the “Colorado Retail Marijuana Code”).

Sec. 6.5.1.3 Purpose. The purpose of the Regulations is to:

- (1) Authorize licensing in the Town of Pagosa Springs as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Pagosa Springs by prescribing the time, place and manner in which marijuana businesses can be conducted in the Town.

- (2) Comply with the Town's obligations under The Colorado Medical Marijuana Code;
- (3) Comply with the Town's obligations under Colorado Constitution Art. XVIII, §16(5)(e);
- (4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to The Medical Marijuana Code;
- (5) Require that retail marijuana stores and retail marijuana cultivation facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to The Colorado Retail Marijuana Code;
- (6) Mitigate potential negative impacts that the medical marijuana establishments and retail marijuana establishments (collectively "Marijuana Establishments") may cause on surrounding properties and persons;
- (7) Regulate the conduct of persons owning, operating, and using marijuana establishments to protect the public health, safety and welfare;
- (8) Establish a nondiscriminatory mechanism by which the Town appropriately regulates the location and operation of marijuana establishments within the Town.
- (9) Ban marijuana businesses that are not specifically licensed by the Town including retail marijuana infused products manufacturers and retail marijuana testing facilities.

Sec. 6.5.1.4 Applicability of Regulations

- (1) *Applications for local licenses.* The authority shall receive and process all applications for marijuana establishments beginning on September 1, 2015.
- (2) *Dual Licenses.* Operation of a licensed medical marijuana center and a retail marijuana store and/or an optional premises cultivation facility and a retail marijuana cultivation facility is permitted so long as appropriate state and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is

permitted to sell marijuana to persons younger than twenty-one (21) years of age, except that medical marijuana products may be sold to a person at least eighteen (18) years of age, as allowed by State law. A dual license is permitted for a co-located medical marijuana center/retail marijuana store to allow for both as separate businesses with separate licenses from the Town at the same location and with overlapping or immediately adjacent premises. A co-located dual license medical marijuana center/retail marijuana store shall be owned by the same owner, and the ownership or financial interest of either business may not be changed to be different from the other.

(3) *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these Regulations, The Colorado Medical Marijuana Code, The Colorado Retail Marijuana Code, Pagosa Springs zoning approvals, or Pagosa Springs building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in the Town, all persons must obtain a license under these Regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

(4) These Regulations apply only within the Town of Pagosa Springs, Colorado.

Sec. 6.5.1.5 Definitions

(1) Unless otherwise expressly provided, the definitions in The Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to medical marijuana establishments.

(2) Unless otherwise expressly provided, the definitions in The Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to retail marijuana establishments.

(3) The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) “*Applicant*” means any person making an application for a license under this Article.

- (b) “*Authority*,” “*Pagosa Springs Local Licensing Authority*” and “*Local Licensing Authority*” have the same meaning for the purposes of these Regulations.
- (c) “*Good Cause*”, for purposes of refusing or denying a license issuance, renewal or transfer, means:
 - (i). The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, The Colorado Medical Marijuana Code, The Colorado Retail Marijuana Code, as applicable;
 - (ii). The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
 - (iii). The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or
 - (iv). The licensed premises have been inactive without justification for at least six months.
- (d) “*Licensed Premises*” means the premises specified in a license under these Regulations, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of The Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. Licensed premises include an off-premises storage facility owned, operated or used by the licensee.
- (e) “*Licensee*” means a person licensed pursuant to these Regulations.
- (f) “*Location*” means a particular parcel of land that may be identified by an address or other descriptive means.

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- (g) “*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 such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate but shall not include industrial hemp, the 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.
- (h) “*Marijuana club*” means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zoning district of adults twenty-one (21) years of age and older as guests of a resident at the location, where a fee is not charged, goods are not sold, and no profit is made by the individual hosting the gathering.
- (i) “*Marijuana Establishment*” means a medical marijuana establishment or a retail marijuana establishment
- (j) “*Medical Marijuana Establishment*” means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in The Colorado Medical Marijuana Code.
- (k) “*Owner*” means any person having a beneficial interest, as defined by the state licensing authority, in a medical marijuana establishment or a retail marijuana establishment.
- (l) “*Patient*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of The Colorado Constitution.
- (m) “*Premises*” means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a room, or any other definite contiguous area.

- (n) “*Primary Care-giver*” or “*Primary Caregiver*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of The Colorado Constitution and Section 25-1.5-106, C.R.S.
- (o) “*Retail Marijuana Establishment*” means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in The Colorado Retail Marijuana Code.
- (p) “*Retail Marijuana products manufacturer*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (q) “*Retail Marijuana testing facility*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (r) “*School*” means and includes elementary school, junior high school, high school, charter school, the principal campus of a college, university, or seminary.
- (s) “*Sale*” or “*Sell*” includes to exchange, barter, or traffic in, to solicit or receive and order, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration promised or obtained directly or indirectly.

Sec. 6.5.1.6 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code

- (1) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from The Colorado Medical Marijuana Code, all of the provisions of The Colorado Medical Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the local licensing authority with respect to medical marijuana establishments.
- (2) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from The Colorado Retail Marijuana Code, all of the provisions of The Colorado Retail Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the local licensing authority with respect to retail marijuana establishments.
- (3) If there is a conflict between the provisions of these Regulations and The Colorado Medical Marijuana Code or The Colorado Retail Marijuana

Code, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Sec. 6.5.1.7 Licenses and Grant of Authority for Dual Licenses

(1) The authority is authorized to issue the following local licenses should the applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

(2) A person may operate a licensed medical marijuana center, optional cultivation facility or medical marijuana-infused products manufacturing facility and any licensed retail marijuana establishment at the same location if the local licensing authority determines that the operations will meet the requirements of these Regulations.

(3) The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by The Colorado Medical Marijuana Code and The Colorado Retail Marijuana Code.

Sec. 6.5.1.8 Limitation on number of licenses

The Town shall issue no more medical marijuana center and retail marijuana store licenses east of the north/south centerline of 14th Street than the number associated with a total of three individual medical marijuana centers, individual retail marijuana stores, or co-located medical marijuana center/retail marijuana stores or any combination of the same. The Town shall issue no more medical marijuana center and retail marijuana store licenses west of the north/south centerline of 14th Street than the number associated with a total of three individual medical marijuana centers, individual retail marijuana stores, or co-located medical marijuana center/retail marijuana store or any combination of the same. Where 14th Street terminates prior to intersecting the Town boundary, the east/west dividing line for purposes of this Section shall be extended north or south to the Town boundary as determined in the reasonable discretion of the local licensing authority.

Sec. 6.5.1.9 Town Reservations

- (1) Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.4-104(3).
- (2) Adoption of these Regulations is not intended to waive or otherwise impair the Town’s authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Sec. 6.5.1.10 Operation Limitations

- (1) Licensees shall be subject to the following additional operation limitations:
 - (a) All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.
 - (b) Each marijuana establishment shall be operated from a permanent location. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed location and such delivery sales account for less than ten (10%) percent of the medical marijuana establishment’s total sales.
 - (c) A medical marijuana center and retail marijuana store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 9 p.m.
 - (d) No marijuana establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The authority in its sole and unfettered discretion may, at any time, require an applicant or licensee to engage an industrial hygienist, at the applicant’s or licensee’s cost, to review the manner in which butane, propane or other

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solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opening on the safety precautions in place. Such industrial hygienist may make recommendations which the Town may require the applicant or licensee to implement.

- (e) No retail marijuana establishment is permitted to sell marijuana to persons younger than twenty-one (21) years of age and must post signage that clearly states: “You must be at least 21 years old to enter.” No medical marijuana establishment is permitted to sell marijuana to persons younger than eighteen (18) years of age and must post signage that clearly states: “You must be at least 18 years old to enter” where any marijuana products are visible.
- (f) All retail marijuana labels must contain the statement: “It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21.” All medical marijuana labels must contain the statement: “Except for licensed medical marijuana centers and primary caregivers, it is illegal to transfer or sell medical marijuana or medical marijuana products to anyone.”
- (g) For co-located dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- (h) All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.
- (i) All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.
- (j) All grow lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented and available for inspection.

- (k) Marijuana establishments may not distribute to a consumer, marijuana or marijuana-infused products free of charge.
- (l) Marijuana establishments are subject to the requirements of The Land Use and Development Code including The Pagosa Springs Sign Code and the restrictions on advertising and marketing under The Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the Town or on the internet; or (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word “marijuana,” “cannabis” or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.
- (m) A marijuana establishment may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than thirty (30%) percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one (21).
- (n) All marijuana establishments shall collect and remit all applicable sales taxes in a timely manner. The state and Town license to engage in a medical marijuana establishment or retail marijuana establishment shall be posted along with the State sales tax license.
- (o) Any marijuana establishments within the Town shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm

system is deactivated, the company monitoring the systems must immediately notify the Pagosa Springs Police Department.

- (p) Marijuana establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every five-hundred (500) square feet of interior business space.
- (q) It shall be unlawful for any marijuana business to employ any person who is not at least twenty-one (21) years of age.
- (r) No Marijuana establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairperson of the authority available to be on the premises within thirty minutes of a demand for such person to be present being made at the establishment.
- (s) There shall be posted in a conspicuous location in each medical marijuana center and retail marijuana store a legible sign containing the following warnings:
 - (i). A warning that the use of marijuana 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 operate machinery when under the influence of or impaired by marijuana;
 - (ii). A warning that possession and distribution of marijuana is a violation of federal law; and
 - (iii). That smoking of marijuana in public is illegal.

- (t) Any and all such records required to be maintained under The Medical Marijuana Code or The Retail Marijuana Code shall be open at all times during business hours for inspection and examination by the Town Manager or his or her duly authorized representative(s). Provided, further, the Town may require the licensee to furnish such information as it considers necessary for the proper administration of these Regulations.

- (u) Medical marijuana centers and retail marijuana stores may not sell only medical marijuana-infused products and marijuana products, and shall at all times have not less than four pounds of marijuana bud/flower and trim/shake for sale. Medical marijuana centers and retail marijuana stores shall obtain at least seventy (70%) percent, by weight, of the marijuana bud/flower and trim/shake they sell from an optional premises cultivation operation or retail marijuana cultivation facility located within Archuleta County. Such sourcing shall be determined based on each calendar year quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31) from seed-to-sale tracking system records maintained pursuant to Sections 12-43.3-202 and 12-43.4-202, C.R.S. A newly licensed medical marijuana center or retail marijuana store must establish its initial inventory of bud/flower and trim/shake meets the seventy (70%) percent Archuleta County cultivation requirement as of the first day the center or store is open for business, by providing tracking system reports to the local licensing authority within fourteen (14) days of opening, which confirm initial compliance. Medical marijuana centers and retail marijuana stores that have been approved for licensing prior to the effective date of Ordinance 847 (Series 2016) do not have to comply with the requirements if this paragraph until the beginning of their second licensing term or the opening of the center or store following approval of a transfer of licenses if such transfer is prior to the licensee's first license renewal term.

(2) By accepting a medical marijuana establishment license or a retail marijuana establishment license, the licensee is providing consent to disclose any information received by the Town. Any records provided by the licensee that include patient or primary caregiver confidential information may be submitted in a manner that maintains the confidentiality

of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The Town will not disclose documents appropriately submitted under the Colorado Open Records Act as confidential documents to any party other than law enforcement agencies.

(3) The Town may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the Town, who shall likewise have access to all books and records of such licensee. The expense of any audit determined to be necessary by the Town, shall be paid by the Town; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes due to the Town, the expense of the audit shall be paid by the licensee.

(4) Acceptance of a medical marijuana establishment license of any type, a retail marijuana establishment license of any type constitutes consent by the licensee, owners, managers and employees of such business to permit the Town Manager or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Sec. 6.5.1.11 Location Restrictions

(1) Marijuana establishments are allowed in the Mixed-Use Corridor, Mixed-Use Town Center, Commercial and Light Industrial zone districts.

(2) No marijuana establishment shall be licensed to operate at a location that is within one-thousand (1000) feet from any school, alcohol or drug treatment facility or licensed day care facility whether located within or outside the corporate limits of the Town. The suitability of a location for the 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 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. Nothing within this section shall preclude the establishment of a school or licensed

day care facility within one-thousand (1000) feet of a pre-existing marijuana establishment.

(3) No marijuana establishment shall be licensed to operate at a location that is within two-hundred and fifty (250) feet of a church or residential zone district, as such zone districts are described in the Land Use and Development Code and as defined in the Archuleta County zoning definitions, unless such location is approved under a conditional use permit by the Town Council at a public hearing with required public notification as described in Section 2.3.6 of the Land Use and Development Code.

(4) The distances referred to in this Section are to be computed by direct measurement from the nearest property line of the land used for the school or licensed day-care facility or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which medical marijuana establishment or retail marijuana establishment products are to be sold.

Part 2. LOCAL LICENSING AUTHORITY

Sec. 6.5.2.1 Establishment of Local Licensing Authority

The local licensing authority shall be the Town Council for the Town of Pagosa Springs.

Sec. 6.5.2.2 Powers

The local licensing authority shall have the powers described in The Medical Marijuana Code and Retail Marijuana Code to issue licenses and the power to hear and determine at a public hearing any contested local license denial, any complaints against a licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held.

Sec. 6.5.2.3 Administrative Action

Except as otherwise provided in these Regulations, the local licensing authority may take action administratively, without hearing, by its Chairperson. Such administrative action is permitted on renewal applications as described herein.

Part 3. LICENSES

Sec. 6.5.3.1 Medical Marijuana Licenses

The local licensing authority shall issue local licenses to applicants only for the purpose of operating a medical marijuana establishment pursuant to The Medical Marijuana Code who fulfill the requirements for one of the following:

- (a) medical marijuana center;
- (b) medical marijuana-infused products manufacturer;
- (c) optional premises cultivation operation.

Sec. 6.5.3.2 Retail Marijuana Licenses

The local licensing authority shall issue local licenses to applicants only for the purpose of operating a retail marijuana establishment pursuant to The Retail Marijuana Code who fulfill the requirements for one the following:

- (a) retail marijuana store; and
- (b) retail marijuana cultivation facility.

Sec. 6.5.3.3 Nature of Local License

A license pursuant to these Regulations shall apply to a specific person, a particular marijuana establishment, and a specific premises, and will not be transferrable to another person, a different marijuana establishment, or different premises except as provided by these Regulations. An application to “convert” a state license for a medical marijuana establishment to a retail marijuana establishment license requires an application for a new license for purposes of these Regulations and, if the medical marijuana establishment license being converted was issued by the Town, the surrender of that license to the Town.

Sec. 6.5.3.4 Condition of Local License for Release of Town

It shall be a condition of all local licenses that the applicant/licensee releases the Town from liability to the applicant/licensee and also agrees to indemnify, defend and hold harmless the Town from liability arising from injuries and damages.

Part 4. LICENSES REQUIRED

Sec. 6.5.4.1 Unlawful Acts

- (1) For any business, establishment, facility or activity which is required by The Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate without both a current state license and a current license issued by the local licensing authority pursuant to these Regulations of the same type and for the same activity at the same location.
- (2) For any business, establishment, facility or activity which is required by The Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate without both a state license and a license issued by the local licensing authority pursuant to these Regulations of the same type and for the same activity at the same location.
- (3) A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the local licensing authority and state licensing authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.
- (4) It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana infused products manufacturing business, a retail marijuana products testing facility or a marijuana club within the Town whether as a primary land use, an incidental use or as a home occupation, and all such uses are hereby prohibited in any location within the Town.
- (5) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of nuisances as provided in Article 2 of Chapter 11 of Pagosa Springs Municipal Code. All violations of this Article shall be considered an emergency violation as provided in Section 11.2.2 of Pagosa Springs Municipal Code.
- (6) The Town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.
- (7) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

Sec. 6.5.4.2 Coordination of Local and State Licenses

- (1) If a medical marijuana establishment or a retail marijuana establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days, then the establishment may operate pending the issuance of a state license.
- (2) Upon denial of a State license for a medical marijuana establishment or retail marijuana establishment which has been issued a license under these Regulations, the local license shall be revoked.
- (3) If a license is suspended or revoked by the state licensing authority, the licensee shall immediately cease operation of the marijuana establishment in the Town until the state license is re-instated during the term of a valid local license. The local licensing authority may suspend or revoke the local license upon the suspension or revocation of the State license.
- (4) Upon the surrender of a State license for a medical marijuana establishment or retail marijuana establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in any order of suspension or revocation.

Sec. 6.5.4.3 Duration of Local Licenses

- (1) Except as provided herein, any local license issued under these Regulations shall, unless sooner revoked, surrendered by the licensee, or otherwise terminated, expire upon the expiration of the corresponding license of the same type for the same activity at the same location issued by the state licensing authority pursuant to The Medical Marijuana Code or Retail Marijuana Code, as applicable.
- (2) A retail marijuana establishment license that was fully converted from a medical marijuana establishment license will assume the balance of the license term previously held by the surrendered medical marijuana establishment license.
- (3) If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them,

violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Sec. 6.5.4.4 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the licensee, and the premises licensed.

Part 5. LICENSE APPLICATIONS

Sec. 6.5.5.1 Licensing Procedure.

The authority shall consider and act upon all complete local license applications as authorized by these Regulations. The authority shall defer to the State to enforce compliance with the requirements in The Colorado Medical Marijuana Code and The Colorado Retail Marijuana Code and any other State regulations not covered by these Regulations. The authority shall grant or deny a license based solely upon the authority's investigation and findings, and a public hearing shall be required. The authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.5.2 Application forms.

(1) All applications for medical marijuana center licenses; optional premises cultivation licenses; medical marijuana-infused products manufacturing licenses; retail marijuana store licenses; and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state and local licensing authority. Applications shall provide for confirmation of compliance with all requirements of these Regulations and the approval criteria set forth in Section 6.5.6.1 and shall include the following supplemental materials:

- (a) identity of the owner of the property on which the premises is located;
- (b) confirmation that the location is within the Mixed-Use Corridor, Mixed-Use Town Center, Commercial or Light Industrial zone district, and any necessary Land Use Code approvals have been obtained;

- (c) a site plan of the premises;
- (d) a list of all other uses on the property;
- (e) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements;
- (f) the number of vehicle trips per day expected to be generated by the business;
- (g) the expected source and level of water use for the premises;
- (h) permits or other applicable documentation related to well use, septic system use, and water sanitation;
- (i) a copy of the State sales tax license for the business;
- (j) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (k) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any marijuana establishment license held by the applicant during the previous 12 months;
- (l) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the premises (or the property of which the premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans;
- (m) a plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For marijuana establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the

systems mitigating odor leaving the premises. For marijuana establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process. For marijuana establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises;

- (n) an inspection of the licensed premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
 - (o) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business;
 - (p) for medical marijuana centers and retail marijuana stores, confirmation that the location of the optional premises cultivation facility or retail marijuana cultivation facility associated with the center or store is located within Archuleta County and that the center or store will be obtaining at least seventy (70%) percent of its bud/flower and trim/shake from that facility; and
 - (q) a detailed drawing, with scale of the floor plan.
- (2) A site plan of the premises will be scaled and show the following:
- (a) The scale used;
 - (b) North arrow designating true north;
 - (c) Property boundaries of the premises, indicating front, rear and side lines;
 - (d) Location of all proposed buildings/structures and existing buildings/structures that will remain;

- (e) Locations and dimensions of all existing and proposed roads, on and adjacent to the premises, driveways, easements, rights-of-way, existing and proposed utilities;
- (f) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
- (g) Platted building envelope(s), if applicable;
- (h) Parking areas and spaces;
- (i) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
- (j) Total acreage or square footage of the premises; and
- (k) Total square footage of all buildings and total square footage of building footprints.

(3) All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO2 gas will be used in the cultivation and the location of the generation, use and storage shall be identified on the site plans.

(4) The authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these Regulations.

(5) An applicant must have filed a complete application for a license of the same type for the same activity at the same location to the state licensing authority before it may apply to the local licensing authority.

(6) The applicant must update any of the information required of an application by this Section in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

(7) By submitting a license application, the applicant and, if the applicant is not the owner, the owner of the premises to be licensed, certify that the applicant has received permission from the premises owner to allow

inspections as may be required under The Medical Marijuana Code, Retail Marijuana Code or these Regulations for purposes of local licensing. In addition, the owner of the premises and the applicant authorize the authority and its designee, departments and agencies of the Town, the Pagosa Fire Protection District or its designee, and the San Juan Basin Health Department or its designee to enter upon and inspect the premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

Sec. 6.5.5.3 Processing Applications

- (1) No application for a license for any type of marijuana establishment may be submitted to the local licensing authority before September 1, 2015.
- (2) Applications shall be submitted to the Town Clerk in care of the authority.
- (3) Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.
- (4) Upon a determination that a complete application, including all required forms and fees, for a license has been received, the authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to the Town Manager as expeditiously as possible, and no later than sixty days after the referral.
 - (a) Building Department: For determination of consistency with Town building and fire code provisions. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.
 - (b) Planning Department: For determination of consistency with the Land Use and Development Code.

- (c) San Juan Basin Health Department: For determination of consistency with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the premises.
 - (d) Any other Town department deemed relevant in the circumstances: For determination of consistency with its regulations.
 - (e) Pagosa Springs Police Department: For investigation as requested by the local licensing authority
 - (f) Town departments shall review the application and inspect the premises as deemed appropriate or requested by the local licensing authority to confirm consistency with building and equipment standards imposed by The Medical Marijuana Code, Retail Marijuana Code and these Regulations.
- (5) The local licensing authority may request that the state licensing authority advise the local licensing authority of any items the state licensing authority finds in its investigation that could result in the denial of the state license. If the local licensing authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the state licensing authority that the issues have been corrected and the applicant is eligible for a state license.
- (6) The local licensing authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Constitution Article XVIII, §16(5)(h) or (i) apply to require the local licensing authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.
- (7) The applicant shall be responsible for submitting any required application, fees and materials directly to the state licensing authority which are required under The Medical Marijuana Code and The Retail Marijuana Code.

Part 6. APPROVAL CRITERIA

Sec. 6.5.6.1 Basic Criteria

Before approving a local license, the authority shall determine that all of the following requirements have been met by the applicant:

- (1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;
- (2) The Town has determined that the use is permitted at the location of the premises and the owner or operator has obtained any required approvals under the Land Use and Development Code;
- (3) No zoning violations exist on the premises;
- (4) All proposed signs meet the requirements of the Pagosa Springs Sign Code and these Regulations;
- (5) All proposed lighting meets the Land Use and Development Code;
- (6) The premises and any structure in which the use is located has been inspected by the Town Building Official or his or her designee and the premises and structure comply with all applicable uniform code provisions including, but not limited to, building and fire codes, or building plans have been submitted that meet the requirements of the uniform codes and all necessary permits have been obtained from the Town;
- (7) The premises complies with any site specific development requirements or applications or plans have been submitted that meet the requirements and all necessary permits or approvals have been obtained from the Town to implement the applications or plans;
- (8) The premises has an alarm and video surveillance systems that comply with these Regulations, or applications or plans have been submitted that meet the requirements and all necessary permits or approvals have been obtained from the Town to implement the applications or plans;
- (9) The premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;
- (10) All property taxes have been paid and no tax liens exist on the premises;
- (11) The applicant and premises are in compliance with all other applicable Town regulations;

(12) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and

(13) The proposed licensed premises are located in a location permitted by these Regulations.

Sec. 6.5.6.2 Applicant Burden of Proof

The applicant bears the burden of proving it meets all licensing requirements.

Sec. 6.5.6.3 State License Must Be Issued First

Before a local license may be issued, the applicant must have applied for a State license of the same type for the same activity at the same location as provided in The Medical Marijuana Code or Retail Marijuana Code, as applicable. If the local licensing authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued, conditioned on the issuance of the State license, if it is demonstrated to the satisfaction of the local licensing authority that the applicant is eligible to receive its state license of the same type for the same activity at the same location based on information provided by the state licensing authority.

Sec. 6.5.6.5 Buildings Must Be Ready for Occupancy Prior to Issuance

An application may be conditionally granted with contingencies associated with completion of improvements and modifications to the building and premises associated with the application so long as plans or applications have been submitted in compliance with the requirements of the code and any necessary approvals and permits have been issued, as set forth in Section 6.5.6.1 No license shall be issued after approval of an application and no premises may begin operating a marijuana establishment until the building in which the business is to be conducted is ready for occupancy, a building permit certificate of occupancy issued, if applicable, with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and an inspection of the premises has been made by the local licensing authority or state licensing authority to determine that the applicant has complied with all conditions, contingencies and requirements, including that the initial inventory of

marijuana meets the seventy (70%) percent Archuleta County cultivation requirement.

Part 7. ACTION ON APPLICATION; HEARINGS

Sec. 6.5.7.1 Action on Applications

The local licensing authority shall consider and act upon all complete local license applications as authorized by these Regulations. The authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.7.2 Public Hearings and Public Notice

- (1) A public hearing shall be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part 9 hereof.
- (2) A public hearing shall be held not less than thirty days after the date the completed application is submitted. The authority shall cause to prepare and the applicant shall post and publish public notice thereof not less than ten days before the hearing. The applicant shall give public notice by posting a sign in a conspicuous place on the premises for which a local license application has been made and by publication in a newspaper of general circulation in the Town.
- (3) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.
- (4) Notice given by publication shall contain the same information as that required for signs.
- (5) If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign

posted as required in this Section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the sign upon the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Sec. 6.5.7.3 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the local licensing authority shall make known its findings based on its investigation in writing to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

Sec. 6.5.7.4 License Findings

(1) Before entering any decision approving, conditionally approving or denying the application, the local licensing authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Medical or retail marijuana establishment proposed.

(2) Before entering any decision approving, conditionally approving or denying the application, the authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in The Medical Marijuana Code and The Retail Marijuana Code. In so doing, the authority may incorporate any findings as to good moral character previously made by the state licensing authority. The authority shall not be required to perform a criminal background check:

- (a) if the state licensing authority has performed a background check on the applicant to the satisfaction of the authority; or
- (b) if the authority approves a license conditioned on the completion and successful review of the background check by the state licensing authority.

(3) Before entering any decision approving, conditionally approving or denying the application, the authority shall make a specific finding of fact

as to whether the proposed licensed premises is located within any distance restrictions established pursuant to Section 6.5.1.10 of these Regulations.

Sec. 6.5.7.5 Decision on Application

- (1) The local licensing authority has authority to refuse to approve, renew or transfer any license for good cause.
- (2) The local licensing authority may approve an application subject to conditions related to these Regulations, The Medical Marijuana Code, The Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.
- (3) Within thirty days after the public hearing or completion of the application investigation, whichever is later, the local licensing authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Sec. 6.5.7.6 Notice of Decision

The local licensing authority promptly shall notify the applicant and the state licensing authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

Sec. 6.5.7.7 Review of Local Licensing Authority Decision

If a license is approved, conditionally approved or denied following the public hearing by the local licensing authority, that decision shall be deemed final action and the sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part 8. DUTIES OF LICENSEE

Sec. 6.5.8.1 Notice of Changes

- (1) A licensee shall notify the local licensing authority in writing of the name, address, and date of birth of any new proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer,

manager and employees must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification before owning, managing, or associating with the operation. A transfer of ownership of a license shall be subject to Part 10 of these Regulations.

(2) A licensee shall report each transfer or change of financial interest in the marijuana establishment to the state and local licensing authorities and receive approval prior to any transfer or change of the license. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

(3) A licensee shall report any change of trade name to the local licensing authority before using it.

Sec. 6.5.8.2 Possession of Licensed Premises

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

Sec. 6.5.8.3 Publicly Display Licenses

The licensee shall conspicuously display the local and the state-issued licenses at all times on the licensed premises.

Sec. 6.5.8.4 On-site Access to Occupational Licenses and Registrations

(1) All persons owning, managing, operating, employed by, working in or having access to restricted areas of a licensed premises of any licensee who are required by The Medical Marijuana Code, Retail Marijuana Code or the state administrative regulations promulgated pursuant thereto to have occupational licenses and registrations must at all times have a valid license and/or registration from the state licensing authority. At all times when on the licensed premises, all such persons shall have on their person, and conspicuously display their occupational licenses and registrations required by the state licensing authority. Copies of all such licenses issued by the state licensing authority shall be provided to the authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the Town has performed a background check and determined the proposed manager or employee to be temporarily

acceptable, then compliance with this Section 6.5.8.4 may be extended for up to ninety (90) days from the start of their employment.

Sec. 6.5.8.5 Compliance with Laws

A licensee shall at all times comply with and maintain the licensed premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations and all applicable state and local laws.

Sec. 6.5.8.6 Notices of Changes in State License Status

A licensee shall notify the local licensing authority in writing if its state license of the same type for the same type of activity at the same location as that issued by the local licensing authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Town Manager within four business days of the action by the state licensing authority. The licensee shall give a copy of a new or renewed state license to the local licensing authority within four business days of its receipt from the state.

Sec. 6.5.8.7 Notices to Public Safety Agencies

Before commencing operation, a licensee shall notify the Pagosa Fire Protection District and the local Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the licensed premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO₂ or CO₂-generating is used on the licensed premises, the method and the location. A licensee shall promptly, within no more than one week, notify the Pagosa Fire Protection District and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the local licensing authority.

PART 9. RENEWALS

Sec. 6.5.9.1 Time to Apply for Renewal License

(1) A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the local licensing authority before its expiration, the licensee may not operate.

(2) A licensee desiring a renewal of an existing license must apply for the renewal to the local licensing authority not less than sixty (60) days before the date of expiration of the current license. The local licensing authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement. Reasonable grounds include that the licensee has pending a timely-filed application for renewal of its state license. A licensee who files a renewal application and pays the requisite fees may continue to operate until the local licensing authority takes final action to approve or deny the renewal application. The local licensing authority shall not accept an application for renewal of a license after the date of expiration except as provided in this Section.

(3) Notwithstanding the provisions of this Section, a licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the state licensing authority, is pending, and the required fees have been paid. In those circumstances, the licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the licensee's late renewal application unless the state licensing authority summarily suspends or denies the license, in which case the licensee must cease operation immediately.

(4) The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the authority. The provisions of Part 5 shall govern the application form and processing as applicable. The application shall include confirmation of the seventy (70%) percent Archuleta County cultivation requirement as of the date of the application, and shall be supplemented with continued confirmation of such compliance as of the date of the hearing on the renewal application.

Sec. 6.5.9.2 Procedures; Action on Application

To the extent applicable, the provisions of Parts 5 and 7 shall govern processing and action on the application for renewal.

Sec. 6.5.9.3 Approval Criteria

The approval criteria in Part 6 hereof for approval of a new license shall be applicable to an application for a renewal. An approval may be granted subject to immediate suspension based on violations during the licensing term prior to the renewal of these regulations, The Medical Marijuana Code, The Retail Marijuana Code, or state regulations promulgated there under.

Part 10. TRANSFERS

Sec. 6.5.10.1 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different premises, or to a different owner or licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Sec. 6.5.10.2 License Transfers Allowed

A licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different premises within the Town, subject to prior application to, and approval by, the local licensing authority and in compliance with The Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Sec. 6.5.10.3 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the authority.

Sec. 6.5.10.4 Approval Criteria

The approval criteria in Part 6 hereof for approval of a new license shall be applicable to an application for a transfer.

Sec. 6.5.10.5 Procedures; Action on Application

The local licensing authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts 5 and 7 shall govern processing and action on the application for transfer.

Sec. 6.5.10.6 Period of Transferred License

Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall expire upon the expiration of the corresponding license of the same type for the same activity at the same location issued by the state licensing authority.

Part 11. ENFORCEMENT

Sec. 6.5.11.1 Inspection

(1) The local licensing authority shall have the rights of entry upon and into and inspection of the premises and records of a licensee to the fullest extent authorized by The Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

(2) The local licensing authority shall at all times during the licensee’s business hours, upon request, be admitted to the licensed premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The local licensing authority may request to inspect during non-business hours if the licensee’s normal business hours are inconsistent with typical business hours.

Sec. 6.5.11.2 Enforcement Actions

To enforce compliance with these regulations, the local licensing authority may pursue any or all of the following actions:

- (1) Deny the renewal or transfer of a license;
- (2) Impose conditions on the renewal or transfer of a license;
- (3) Suspend or revoke a license;
- (4) Pursue the abatement of the violation as a public nuisance, pursuant to Section 1.5.4.1(5) and Article 2, Chapter 11 of the Pagosa Springs Municipal Code;

- (5) Obtain in the Pagosa Springs Municipal Court an order for injunction, abatement, restitution, or other remedy necessary to prevent, enjoin, abate or remove the violation;
- (6) Prosecution of any violator pursuant to Section 1.3.3 of the Municipal Code;
- (7) Prosecution of any violation pursuant to Sections 12-43.4-901, 12-43.3-901 and 18-1.3-501, C.R.S; and
- (8) Fines of not less than \$500 nor more than \$1,000 in lieu of suspension of fourteen (14) days or less, pursuant to Sections 12-43.3-601(3) and 12-43.4-601(3), C.R.S.

Sec. 6.5.11.3 Hearing; Suspension, Revocation of License

- (1) A license issued pursuant to these Regulations may be suspended or revoked by the local licensing authority after a hearing for any of the following reasons:
 - (a) Fraud, misrepresentation or a false statement of material fact contained in the license application;
 - (b) A violation of any Town, county, state or federal law or regulation with respect to the ownership or operation of the marijuana establishment or with respect to the licensed premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64 to The Colorado Constitution;
 - (c) A violation of any of the terms and conditions of the license;
 - (d) A violation of any of the provisions of these Regulations;
 - (e) The corresponding state license has been suspended or revoked by the state licensing authority; or
 - (f) The licensed premises have been inactive without good cause for at least six months.

Deleted: one year

- (2) A licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.
- (3) Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.
- (4) If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes that the licensee has engaged in a different violation of these Regulations, The Medical Marijuana Code or The Retail Marijuana Code, as applicable, or an order of the state or local licensing authority, the licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.
- (5) The burden of proof shall be on the Town to show that grounds exist for suspension or revocation of the license.
- (6) Any decision made by the local licensing authority pursuant to this Section shall constitute the final decision of the Town, is effective immediately unless otherwise stated in the decision, and may be appealed pursuant to Rule 106(a)(4) of The Colorado Rules of Civil Procedure.
- (7) No fee previously paid by a licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Sec. 6.5.11.4 These Enforcement Provisions are not Exclusive

The enforcement provisions expressly stated in these regulations are not exclusive. The Town and local licensing authority shall have any and all enforcement powers afforded by the Charter, Municipal Code, state statutes, and state regulations. In addition to all other remedies available to the Town under these Regulations or by other law, including The Medical Marijuana Code, The Retail Marijuana Code and the state regulations promulgated thereto, violations may be prosecuted in the Town of Pagosa Springs Municipal Court or any other court of competent jurisdiction.

Sec. 6.5.11.5 Deference to State Licensing Authority

The authority may defer to the state to enforce compliance with the requirements in The Medical Marijuana Code and The Retail Marijuana Code.

Part 12. FEES

Sec. 6.5.12.1 Fees Set by Resolution

The Town Council may set and revise application, license and operating fees by resolution.

Sec. 6.5.12.2 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Town Fee Schedule.

Sec. 6.5.12.3 Retail Marijuana Establishments – Application Fees

Application fees for retail marijuana establishment licenses are determined by The Retail Marijuana Code and collected by the state licensing authority.

Sec. 6.5.12.4 Retail Marijuana Establishments – Operating Fees

- (1) Operating fees shall be set with the objective of offsetting the cost to the Town of administering these Regulations.
- (2) Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Town’s Fee Schedule, in addition to the application fee received by the local licensing authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any retail marijuana establishment license that was fully converted from a medical marijuana establishment license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.
- (3) If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license,

including an application for transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the local licensing authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the authority that the fee is not sufficient to cover all consulting costs associated with the application. If the authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

Sec. 6.5.12.5 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the licensee qualifies for consideration of that late renewal pursuant to Section 6.5.9.1, the renewal application must be accompanied by a late renewal penalty, if any, as stated on the Town Fee Schedule.

Sec. 6.5.12.6 Payment of Fees

All fees are due and must be paid before any application is deemed complete. All funds must be remitted in the form of a business check or certified funds.

Part 13. PATIENTS AND PRIMARY CAREGIVERS

Sec. 6.5.13 Patients and Primary Caregivers.

(1) Nothing in this Article shall be construed to prohibit or otherwise impair the use of medical marijuana by patients, in accordance with The Colorado Constitution and consistent with Section 25-1.5-106, C.R.S. and rules promulgated thereunder, as may be amended from time to time.

(2) Primary care-givers within the Town are authorized to engage only in those activities regarding medical marijuana that are set forth in Section 14 of Article XVIII of The Colorado Constitution, as defined and limited by Section 25-1.5-106, C.R.S. Primary care-givers who engage in the sale of medical marijuana and/or who charge for care-giver services, shall be deemed to be operating a business within the Town and shall obtain a

business license pursuant to Section 6.1.3 of the Pagosa Springs Municipal Code.

(3) Primary care-givers and patients who engage in the cultivation of medical marijuana or the provision of care-giver services within the Town, whether for compensation or not, shall comply with all regulations of general applicability within the Town, including zoning regulations and uniform codes.

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 847
(SERIES 2016)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
REPEALING AND READOPTING CHAPTER 6, ARTICLE 5 OF
THE PAGOSA SPRINGS MUNICIPAL CODE REGARDING THE
REGULATION AND LICENSING OF MARIJUANA BUSINESS
ESTABLISHMENTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of The Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012; and

WHEREAS, on November 7, 2000, the voters of the State of Colorado approved Amendment 20 enacted as Article XVIII, Section 14 of The Colorado Constitution (“Amendment 20”), which authorizes, subject to certain limitations, the medical use of marijuana by patients who have been advised by their physician, in a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with the patient’s debilitating medical condition; and

WHEREAS, the General Assembly enacted The Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, “Colorado Medical Marijuana Code”) to implement Amendment 20 to The Colorado Constitution authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of The Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of The Medical Marijuana Code, Colorado voters enacted Amendment 64 to The Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as “retail” marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted The Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, “Colorado Retail Marijuana Code”) governing retail marijuana establishments and use as more particularly described in The Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of The Colorado Retail Marijuana Code, The Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, pursuant to Amendment 64, and The Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), municipalities may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of The Retail Marijuana Code; and

WHEREAS, by Ordinance No. 825 (Series 2015) adopted on final reading on May 21, 2015, and Ordinance No. 830 (Series 2015) the Town Council enacted and amended Article 5 of Chapter 6 of The Pagosa Springs Municipal Code for the regulation and licensing of marijuana business establishments; and

WHEREAS, the Town Council finds it is in the interest of public health, safety and welfare that the Council amend the Town regulations concerning the licensing of certain medical and retail marijuana businesses; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

I. **Repeal and Readoption of Article 5, Chapter 6.** Article 5, Chapter 6 of The Pagosa Springs Municipal Code is repealed and readopted as provided in Exhibit 1 attached hereto and incorporated herein.

II. **Public Inspection.** The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

III. **Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

IV. **Effective date.** This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF ____, 2016.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF ____, 2016.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 847 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the _____ day of _____, 2016, and was published by title only, along with a statement indicating that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2016, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ___ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 847 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the _____ day of _____, 2016, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ___ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

**CHAPTER 6
BUSINESS REGULATIONS**

**ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS**

Part 1. GENERAL

Sec. 6.5.1.1 Title

These regulations shall be known and referred to as the “Pagosa Springs Marijuana Licensing Regulations” (referred to herein as the “Regulations”).

Sec. 6.5.1.2 Authority

(1) Section 14 of Article XVIII of The Colorado Constitution permits limited medical uses of marijuana under Colorado law.

(2) Section 16, Article XVIII of The Colorado Constitution permits personal use of marijuana by persons aged twenty-one (21) years and older under Colorado law.

(3) The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. and The Colorado Department of Revenue’s Medical Marijuana Rules adopted at 1 CCR 212-1, Series 100 through 1400 (The Colorado Medical Marijuana Code and The Colorado Medical Marijuana Rules are collectively referred to as the “Colorado Medical Marijuana Code”).

(4) The Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. and The Colorado Department of Revenue’s Retail Marijuana Rules adopted at 1 CCR 212-2, Series 100 through 1400 (The Colorado Retail Marijuana Code and The Retail Marijuana Rules are collectively referred to as the “Colorado Retail Marijuana Code”).

Sec. 6.5.1.3 Purpose. The purpose of the Regulations is to:

(1) Authorize licensing in the Town of Pagosa Springs as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Pagosa Springs by prescribing the time, place and manner in which marijuana businesses can be conducted in the Town.

- (2) Comply with the Town's obligations under The Colorado Medical Marijuana Code;
- (3) Comply with the Town's obligations under Colorado Constitution Art. XVIII, §16(5)(e);
- (4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to The Medical Marijuana Code;
- (5) Require that retail marijuana stores and retail marijuana cultivation facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to The Colorado Retail Marijuana Code;
- (6) Mitigate potential negative impacts that the medical marijuana establishments and retail marijuana establishments (collectively "Marijuana Establishments") may cause on surrounding properties and persons;
- (7) Regulate the conduct of persons owning, operating, and using marijuana establishments to protect the public health, safety and welfare;
- (8) Establish a nondiscriminatory mechanism by which the Town appropriately regulates the location and operation of marijuana establishments within the Town.
- (9) Ban marijuana businesses that are not specifically licensed by the Town including retail marijuana infused products manufacturers and retail marijuana testing facilities.

Sec. 6.5.1.4 Applicability of Regulations

- (1) *Applications for local licenses.* The authority shall receive and process all applications for marijuana establishments beginning on September 1, 2015.
- (2) *Dual Licenses.* Operation of a licensed medical marijuana center and a retail marijuana store and/or an optional premises cultivation facility and a retail marijuana cultivation facility is permitted so long as appropriate state and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is

permitted to sell marijuana to persons younger than twenty-one (21) years of age, except that medical marijuana products may be sold to a person at least eighteen (18) years of age, as allowed by State law. A dual license is permitted for a co-located medical marijuana center/retail marijuana store to allow for both as separate businesses with separate licenses from the Town at the same location and with overlapping or immediately adjacent premises. A co-located dual license medical marijuana center/retail marijuana store shall be owned by the same owner, and the ownership or financial interest of either business may not be changed to be different from the other.

(3) *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these Regulations, The Colorado Medical Marijuana Code, The Colorado Retail Marijuana Code, Pagosa Springs zoning approvals, or Pagosa Springs building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in the Town, all persons must obtain a license under these Regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

(4) These Regulations apply only within the Town of Pagosa Springs, Colorado.

Sec. 6.5.1.5 Definitions

(1) Unless otherwise expressly provided, the definitions in The Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to medical marijuana establishments.

(2) Unless otherwise expressly provided, the definitions in The Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to retail marijuana establishments.

(3) The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) “*Applicant*” means any person making an application for a license under this Article.

- (b) “*Authority*,” “*Pagosa Springs Local Licensing Authority*” and “*Local Licensing Authority*” have the same meaning for the purposes of these Regulations.
- (c) “*Good Cause*”, for purposes of refusing or denying a license issuance, renewal or transfer, means:
 - (i). The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, The Colorado Medical Marijuana Code, The Colorado Retail Marijuana Code, as applicable;
 - (ii). The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
 - (iii). The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or
 - (iv). The licensed premises have been inactive without justification for at least six months.
- (d) “*Licensed Premises*” means the premises specified in a license under these Regulations, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of The Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. Licensed premises include an off-premises storage facility owned, operated or used by the licensee.
- (e) “*Licensee*” means a person licensed pursuant to these Regulations.
- (f) “*Location*” means a particular parcel of land that may be identified by an address or other descriptive means.

- (g) “*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 such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate but shall not include industrial hemp, the 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.
- (h) “*Marijuana club*” means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zoning district of adults twenty-one (21) years of age and older as guests of a resident at the location, where a fee is not charged, goods are not sold, and no profit is made by the individual hosting the gathering.
- (i) “*Marijuana Establishment*” means a medical marijuana establishment or a retail marijuana establishment
- (j) “*Medical Marijuana Establishment*” means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in The Colorado Medical Marijuana Code.
- (k) “*Owner*” means any person having a beneficial interest, as defined by the state licensing authority, in a medical marijuana establishment or a retail marijuana establishment.
- (l) “*Patient*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of The Colorado Constitution.
- (m) “*Premises*” means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a room, or any other definite contiguous area.

- (n) “*Primary Care-giver*” or “*Primary Caregiver*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of The Colorado Constitution and Section 25-1.5-106, C.R.S.
- (o) “*Retail Marijuana Establishment*” means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in The Colorado Retail Marijuana Code.
- (p) “*Retail Marijuana products manufacturer*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (q) “*Retail Marijuana testing facility*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (r) “*School*” means and includes elementary school, junior high school, high school, charter school, the principal campus of a college, university, or seminary.
- (s) “*Sale*” or “*Sell*” includes to exchange, barter, or traffic in, to solicit or receive and order, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration promised or obtained directly or indirectly.

Sec. 6.5.1.6 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code

(1) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from The Colorado Medical Marijuana Code, all of the provisions of The Colorado Medical Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the local licensing authority with respect to medical marijuana establishments.

(2) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from The Colorado Retail Marijuana Code, all of the provisions of The Colorado Retail Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the local licensing authority with respect to retail marijuana establishments.

(3) If there is a conflict between the provisions of these Regulations and The Colorado Medical Marijuana Code or The Colorado Retail Marijuana

Code, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Sec. 6.5.1.7 Licenses and Grant of Authority for Dual Licenses

(1) The authority is authorized to issue the following local licenses should the applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these Regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

(2) A person may operate a licensed medical marijuana center, optional cultivation facility or medical marijuana-infused products manufacturing facility and any licensed retail marijuana establishment at the same location if the local licensing authority determines that the operations will meet the requirements of these Regulations.

(3) The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by The Colorado Medical Marijuana Code and The Colorado Retail Marijuana Code.

Sec. 6.5.1.8 Limitation on number of licenses

The Town shall issue no more medical marijuana center and retail marijuana store licenses east of the north/south centerline of 14th Street than the number associated with a total of three individual medical marijuana centers, individual retail marijuana stores, or co-located medical marijuana center/retail marijuana stores or any combination of the same. The Town shall issue no more medical marijuana center and retail marijuana store licenses west of the north/south centerline of 14th Street than the number associated with a total of three individual medical marijuana centers, individual retail marijuana stores, or co-located medical marijuana center/retail marijuana store or any combination of the same. Where 14th Street terminates prior to intersecting the Town boundary, the east/west dividing line for purposes of this Section shall be extended north or south to the Town boundary as determined in the reasonable discretion of the local licensing authority.

Sec. 6.5.1.9 Town Reservations

- (1) Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.4-104(3).
- (2) Adoption of these Regulations is not intended to waive or otherwise impair the Town's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Sec. 6.5.1.10 Operation Limitations

- (1) Licensees shall be subject to the following additional operation limitations:
 - (a) All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.
 - (b) Each marijuana establishment shall be operated from a permanent location. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed location and such delivery sales account for less than ten (10%) percent of the medical marijuana establishment's total sales.
 - (c) A medical marijuana center and retail marijuana store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 9 p.m.
 - (d) No marijuana establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The authority in its sole and unfettered discretion may, at any time, require an applicant or licensee to engage an industrial hygienist, at the applicant's or licensee's cost, to review the manner in which butane, propane or other

solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opening on the safety precautions in place. Such industrial hygienist may make recommendations which the Town may require the applicant or licensee to implement.

- (e) No retail marijuana establishment is permitted to sell marijuana to persons younger than twenty-one (21) years of age and must post signage that clearly states: “You must be at least 21 years old to enter.” No medical marijuana establishment is permitted to sell marijuana to persons younger than eighteen (18) years of age and must post signage that clearly states: “You must be at least 18 years old to enter” where any marijuana products are visible.
- (f) All retail marijuana labels must contain the statement: “It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21.” All medical marijuana labels must contain the statement: “Except for licensed medical marijuana centers and primary caregivers, it is illegal to transfer or sell medical marijuana or medical marijuana products to anyone.”
- (g) For co-located dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- (h) All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.
- (i) All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.
- (j) All grow lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented and available for inspection.

- (k) Marijuana establishments may not distribute to a consumer, marijuana or marijuana-infused products free of charge.
- (l) Marijuana establishments are subject to the requirements of The Land Use and Development Code including The Pagosa Springs Sign Code and the restrictions on advertising and marketing under The Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the Town or on the internet; or (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word “marijuana,” “cannabis” or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.
- (m) A marijuana establishment may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than thirty (30%) percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one (21).
- (n) All marijuana establishments shall collect and remit all applicable sales taxes in a timely manner. The state and Town license to engage in a medical marijuana establishment or retail marijuana establishment shall be posted along with the State sales tax license.
- (o) Any marijuana establishments within the Town shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm

system is deactivated, the company monitoring the systems must immediately notify the Pagosa Springs Police Department.

- (p) Marijuana establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every five-hundred (500) square feet of interior business space.
- (q) It shall be unlawful for any marijuana business to employ any person who is not at least twenty-one (21) years of age.
- (r) No Marijuana establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairperson of the authority available to be on the premises within thirty minutes of a demand for such person to be present being made at the establishment.
- (s) There shall be posted in a conspicuous location in each medical marijuana center and retail marijuana store a legible sign containing the following warnings:
 - (i). A warning that the use of marijuana 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 operate machinery when under the influence of or impaired by marijuana;
 - (ii). A warning that possession and distribution of marijuana is a violation of federal law; and
 - (iii). That smoking of marijuana in public is illegal.

- (t) Any and all such records required to be maintained under The Medical Marijuana Code or The Retail Marijuana Code shall be open at all times during business hours for inspection and examination by the Town Manager or his or her duly authorized representative(s). Provided, further, the Town may require the licensee to furnish such information as it considers necessary for the proper administration of these Regulations.

 - (u) Medical marijuana centers and retail marijuana stores may not sell only medical marijuana-infused products and marijuana products, and shall at all times have not less than four pounds of marijuana bud/flower and trim/shake for sale. Medical marijuana centers and retail marijuana stores shall obtain at least seventy (70%) percent, by weight, of the marijuana bud/flower and trim/shake they sell from an optional premises cultivation operation or retail marijuana cultivation facility located within Archuleta County. Such sourcing shall be determined based on each calendar year quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31) from seed-to-sale tracking system records maintained pursuant to Sections 12-43.3-202 and 12-43.4-202, C.R.S. A newly licensed medical marijuana center or retail marijuana store must establish its initial inventory of bud/flower and trim/shake meets the seventy (70%) percent Archuleta County cultivation requirement as of the first day the center or store is open for business, by providing tracking system reports to the local licensing authority within fourteen (14) days of opening, which confirm initial compliance. Medical marijuana centers and retail marijuana stores that have been approved for licensing prior to the effective date of Ordinance 847 (Series 2016) do not have to comply with the requirements if this paragraph until the beginning of their second licensing term or the opening of the center or store following approval of a transfer of licenses if such transfer is prior to the licensee's first license renewal term.
- (2) By accepting a medical marijuana establishment license or a retail marijuana establishment license, the licensee is providing consent to disclose any information received by the Town. Any records provided by the licensee that include patient or primary caregiver confidential information may be submitted in a manner that maintains the confidentiality

of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The Town will not disclose documents appropriately submitted under the Colorado Open Records Act as confidential documents to any party other than law enforcement agencies.

(3) The Town may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the Town, who shall likewise have access to all books and records of such licensee. The expense of any audit determined to be necessary by the Town, shall be paid by the Town; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes due to the Town, the expense of the audit shall be paid by the licensee.

(4) Acceptance of a medical marijuana establishment license of any type, a retail marijuana establishment license of any type constitutes consent by the licensee, owners, managers and employees of such business to permit the Town Manager or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Sec. 6.5.1.11 Location Restrictions

(1) Marijuana establishments are allowed in the Mixed-Use Corridor, Mixed-Use Town Center, Commercial and Light Industrial zone districts.

(2) No marijuana establishment shall be licensed to operate at a location that is within one-thousand (1000) feet from any school, alcohol or drug treatment facility or licensed day care facility whether located within or outside the corporate limits of the Town. The suitability of a location for the 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 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. Nothing within this section shall preclude the establishment of a school or licensed

day care facility within one-thousand (1000) feet of a pre-existing marijuana establishment.

(3) No marijuana establishment shall be licensed to operate at a location that is within two-hundred and fifty (250) feet of a church or residential zone district, as such zone districts are described in the Land Use and Development Code and as defined in the Archuleta County zoning definitions, unless such location is approved under a conditional use permit by the Town Council at a public hearing with required public notification as described in Section 2.3.6 of the Land Use and Development Code.

(4) The distances referred to in this Section are to be computed by direct measurement from the nearest property line of the land used for the school or licensed day-care facility or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which medical marijuana establishment or retail marijuana establishment products are to be sold.

Part 2. LOCAL LICENSING AUTHORITY

Sec. 6.5.2.1 Establishment of Local Licensing Authority

The local licensing authority shall be the Town Council for the Town of Pagosa Springs.

Sec. 6.5.2.2 Powers

The local licensing authority shall have the powers described in The Medical Marijuana Code and Retail Marijuana Code to issue licenses and the power to hear and determine at a public hearing any contested local license denial, any complaints against a licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held.

Sec. 6.5.2.3 Administrative Action

Except as otherwise provided in these Regulations, the local licensing authority may take action administratively, without hearing, by its Chairperson. Such administrative action is permitted on renewal applications as described herein.

Part 3. LICENSES

Sec. 6.5.3.1 Medical Marijuana Licenses

The local licensing authority shall issue local licenses to applicants only for the purpose of operating a medical marijuana establishment pursuant to The Medical Marijuana Code who fulfill the requirements for one of the following:

- (a) medical marijuana center;
- (b) medical marijuana-infused products manufacturer;
- (c) optional premises cultivation operation.

Sec. 6.5.3.2 Retail Marijuana Licenses

The local licensing authority shall issue local licenses to applicants only for the purpose of operating a retail marijuana establishment pursuant to The Retail Marijuana Code who fulfill the requirements for one the following:

- (a) retail marijuana store; and
- (b) retail marijuana cultivation facility.

Sec. 6.5.3.3 Nature of Local License

A license pursuant to these Regulations shall apply to a specific person, a particular marijuana establishment, and a specific premises, and will not be transferrable to another person, a different marijuana establishment, or different premises except as provided by these Regulations. An application to “convert” a state license for a medical marijuana establishment to a retail marijuana establishment license requires an application for a new license for purposes of these Regulations and, if the medical marijuana establishment license being converted was issued by the Town, the surrender of that license to the Town.

Sec. 6.5.3.4 Condition of Local License for Release of Town

It shall be a condition of all local licenses that the applicant/licensee releases the Town from liability to the applicant/licensee and also agrees to indemnify, defend and hold harmless the Town from liability arising from injuries and damages.

Part 4. LICENSES REQUIRED

Sec. 6.5.4.1 Unlawful Acts

- (1) For any business, establishment, facility or activity which is required by The Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate without both a current state license and a current license issued by the local licensing authority pursuant to these Regulations of the same type and for the same activity at the same location.
- (2) For any business, establishment, facility or activity which is required by The Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate without both a state license and a license issued by the local licensing authority pursuant to these Regulations of the same type and for the same activity at the same location.
- (3) A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the local licensing authority and state licensing authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.
- (4) It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana infused products manufacturing business, a retail marijuana products testing facility or a marijuana club within the Town whether as a primary land use, an incidental use or as a home occupation, and all such uses are hereby prohibited in any location within the Town.
- (5) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of nuisances as provided in Article 2 of Chapter 11 of Pagosa Springs Municipal Code. All violations of this Article shall be considered an emergency violation as provided in Section 11.2.2 of Pagosa Springs Municipal Code.
- (6) The Town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.
- (7) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

Sec. 6.5.4.2 Coordination of Local and State Licenses

- (1) If a medical marijuana establishment or a retail marijuana establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days, then the establishment may operate pending the issuance of a state license.
- (2) Upon denial of a State license for a medical marijuana establishment or retail marijuana establishment which has been issued a license under these Regulations, the local license shall be revoked.
- (3) If a license is suspended or revoked by the state licensing authority, the licensee shall immediately cease operation of the marijuana establishment in the Town until the state license is re-instated during the term of a valid local license. The local licensing authority may suspend or revoke the local license upon the suspension or revocation of the State license.
- (4) Upon the surrender of a State license for a medical marijuana establishment or retail marijuana establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in any order of suspension or revocation.

Sec. 6.5.4.3 Duration of Local Licenses

- (1) Except as provided herein, any local license issued under these Regulations shall, unless sooner revoked, surrendered by the licensee, or otherwise terminated, expire upon the expiration of the corresponding license of the same type for the same activity at the same location issued by the state licensing authority pursuant to The Medical Marijuana Code or Retail Marijuana Code, as applicable.
- (2) A retail marijuana establishment license that was fully converted from a medical marijuana establishment license will assume the balance of the license term previously held by the surrendered medical marijuana establishment license.
- (3) If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them,

violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Sec. 6.5.4.4 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the licensee, and the premises licensed.

Part 5. LICENSE APPLICATIONS

Sec. 6.5.5.1 Licensing Procedure.

The authority shall consider and act upon all complete local license applications as authorized by these Regulations. The authority shall defer to the State to enforce compliance with the requirements in The Colorado Medical Marijuana Code and The Colorado Retail Marijuana Code and any other State regulations not covered by these Regulations. The authority shall grant or deny a license based solely upon the authority's investigation and findings, and a public hearing shall be required. The authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.5.2 Application forms.

(1) All applications for medical marijuana center licenses; optional premises cultivation licenses; medical marijuana-infused products manufacturing licenses; retail marijuana store licenses; and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state and local licensing authority. Applications shall provide for confirmation of compliance with all requirements of these Regulations and the approval criteria set forth in Section 6.5.6.1 and shall include the following supplemental materials:

- (a) identity of the owner of the property on which the premises is located;
- (b) confirmation that the location is within the Mixed-Use Corridor, Mixed-Use Town Center, Commercial or Light Industrial zone district, and any necessary Land Use Code approvals have been obtained;

- (c) a site plan of the premises;
- (d) a list of all other uses on the property;
- (e) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements;
- (f) the number of vehicle trips per day expected to be generated by the business;
- (g) the expected source and level of water use for the premises;
- (h) permits or other applicable documentation related to well use, septic system use, and water sanitation;
- (i) a copy of the State sales tax license for the business;
- (j) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (k) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any marijuana establishment license held by the applicant during the previous 12 months;
- (l) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the premises (or the property of which the premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans;
- (m) a plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For marijuana establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the

systems mitigating odor leaving the premises. For marijuana establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process. For marijuana establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises;

- (n) an inspection of the licensed premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
 - (o) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business;
 - (p) for medical marijuana centers and retail marijuana stores, confirmation that the location of the optional premises cultivation facility or retail marijuana cultivation facility associated with the center or store is located within Archuleta County and that the center or store will be obtaining at least seventy (70%) percent of its bud/flower and trim/shake from that facility; and
 - (q) a detailed drawing, with scale of the floor plan.
- (2) A site plan of the premises will be scaled and show the following:
- (a) The scale used;
 - (b) North arrow designating true north;
 - (c) Property boundaries of the premises, indicating front, rear and side lines;
 - (d) Location of all proposed buildings/structures and existing buildings/structures that will remain;

- (e) Locations and dimensions of all existing and proposed roads, on and adjacent to the premises, driveways, easements, rights-of-way, existing and proposed utilities;
- (f) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
- (g) Platted building envelope(s), if applicable;
- (h) Parking areas and spaces;
- (i) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
- (j) Total acreage or square footage of the premises; and
- (k) Total square footage of all buildings and total square footage of building footprints.

(3) All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO₂ gas will be used in the cultivation and the location of the generation, use and storage shall be identified on the site plans.

(4) The authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these Regulations.

(5) An applicant must have filed a complete application for a license of the same type for the same activity at the same location to the state licensing authority before it may apply to the local licensing authority.

(6) The applicant must update any of the information required of an application by this Section in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

(7) By submitting a license application, the applicant and, if the applicant is not the owner, the owner of the premises to be licensed, certify that the applicant has received permission from the premises owner to allow

inspections as may be required under The Medical Marijuana Code, Retail Marijuana Code or these Regulations for purposes of local licensing. In addition, the owner of the premises and the applicant authorize the authority and its designee, departments and agencies of the Town, the Pagosa Fire Protection District or its designee, and the San Juan Basin Health Department or its designee to enter upon and inspect the premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

Sec. 6.5.5.3 Processing Applications

- (1) No application for a license for any type of marijuana establishment may be submitted to the local licensing authority before September 1, 2015.
- (2) Applications shall be submitted to the Town Clerk in care of the authority.
- (3) Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.
- (4) Upon a determination that a complete application, including all required forms and fees, for a license has been received, the authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to the Town Manager as expeditiously as possible, and no later than sixty days after the referral.
 - (a) Building Department: For determination of consistency with Town building and fire code provisions. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.
 - (b) Planning Department: For determination of consistency with the Land Use and Development Code.

- (c) San Juan Basin Health Department: For determination of consistency with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the premises.
 - (d) Any other Town department deemed relevant in the circumstances: For determination of consistency with its regulations.
 - (e) Pagosa Springs Police Department: For investigation as requested by the local licensing authority
 - (f) Town departments shall review the application and inspect the premises as deemed appropriate or requested by the local licensing authority to confirm consistency with building and equipment standards imposed by The Medical Marijuana Code, Retail Marijuana Code and these Regulations.
- (5) The local licensing authority may request that the state licensing authority advise the local licensing authority of any items the state licensing authority finds in its investigation that could result in the denial of the state license. If the local licensing authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the state licensing authority that the issues have been corrected and the applicant is eligible for a state license.
- (6) The local licensing authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Constitution Article XVIII, §16(5)(h) or (i) apply to require the local licensing authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.
- (7) The applicant shall be responsible for submitting any required application, fees and materials directly to the state licensing authority which are required under The Medical Marijuana Code and The Retail Marijuana Code.

Part 6. APPROVAL CRITERIA

Sec. 6.5.6.1 Basic Criteria

Before approving a local license, the authority shall determine that all of the following requirements have been met by the applicant:

- (1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;
- (2) The Town has determined that the use is permitted at the location of the premises and the owner or operator has obtained any required approvals under the Land Use and Development Code;
- (3) No zoning violations exist on the premises;
- (4) All proposed signs meet the requirements of the Pagosa Springs Sign Code and these Regulations;
- (5) All proposed lighting meets the Land Use and Development Code;
- (6) The premises and any structure in which the use is located has been inspected by the Town Building Official or his or her designee and the premises and structure comply with all applicable uniform code provisions including, but not limited to, building and fire codes, or building plans have been submitted that meet the requirements of the uniform codes and all necessary permits have been obtained from the Town;
- (7) The premises complies with any site specific development requirements or applications or plans have been submitted that meet the requirements and all necessary permits or approvals have been obtained from the Town to implement the applications or plans;
- (8) The premises has an alarm and video surveillance systems that comply with these Regulations, or applications or plans have been submitted that meet the requirements and all necessary permits or approvals have been obtained from the Town to implement the applications or plans;
- (9) The premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;
- (10) All property taxes have been paid and no tax liens exist on the premises;
- (11) The applicant and premises are in compliance with all other applicable Town regulations;

(12) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and

(13) The proposed licensed premises are located in a location permitted by these Regulations.

Sec. 6.5.6.2 Applicant Burden of Proof

The applicant bears the burden of proving it meets all licensing requirements.

Sec. 6.5.6.3 State License Must Be Issued First

Before a local license may be issued, the applicant must have applied for a State license of the same type for the same activity at the same location as provided in The Medical Marijuana Code or Retail Marijuana Code, as applicable. If the local licensing authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued, conditioned on the issuance of the State license, if it is demonstrated to the satisfaction of the local licensing authority that the applicant is eligible to receive its state license of the same type for the same activity at the same location based on information provided by the state licensing authority.

Sec. 6.5.6.5 Buildings Must Be Ready for Occupancy Prior to Issuance

An application may be conditionally granted with contingencies associated with completion of improvements and modifications to the building and premises associated with the application so long as plans or applications have been submitted in compliance with the requirements of the code and any necessary approvals and permits have been issued, as set forth in Section 6.5.6.1 No license shall be issued after approval of an application and no premises may begin operating a marijuana establishment until the building in which the business is to be conducted is ready for occupancy, a building permit certificate of occupancy issued, if applicable, with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and an inspection of the premises has been made by the local licensing authority or state licensing authority to determine that the applicant has complied with all conditions, contingencies and requirements, including that the initial inventory of

marijuana meets the seventy (70%) percent Archuleta County cultivation requirement.

Part 7. ACTION ON APPLICATION; HEARINGS

Sec. 6.5.7.1 Action on Applications

The local licensing authority shall consider and act upon all complete local license applications as authorized by these Regulations. The authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.7.2 Public Hearings and Public Notice

(1) A public hearing shall be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part 9 hereof.

(2) A public hearing shall be held not less than thirty days after the date the completed application is submitted. The authority shall cause to prepare and the applicant shall post and publish public notice thereof not less than ten days before the hearing. The applicant shall give public notice by posting a sign in a conspicuous place on the premises for which a local license application has been made and by publication in a newspaper of general circulation in the Town.

(3) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(4) Notice given by publication shall contain the same information as that required for signs.

(5) If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign

posted as required in this Section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the sign upon the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Sec. 6.5.7.3 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the local licensing authority shall make known its findings based on its investigation in writing to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

Sec. 6.5.7.4 License Findings

(1) Before entering any decision approving, conditionally approving or denying the application, the local licensing authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Medical or retail marijuana establishment proposed.

(2) Before entering any decision approving, conditionally approving or denying the application, the authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in The Medical Marijuana Code and The Retail Marijuana Code. In so doing, the authority may incorporate any findings as to good moral character previously made by the state licensing authority. The authority shall not be required to perform a criminal background check:

- (a) if the state licensing authority has performed a background check on the applicant to the satisfaction of the authority; or
- (b) if the authority approves a license conditioned on the completion and successful review of the background check by the state licensing authority.

(3) Before entering any decision approving, conditionally approving or denying the application, the authority shall make a specific finding of fact

as to whether the proposed licensed premises is located within any distance restrictions established pursuant to Section 6.5.1.10 of these Regulations.

Sec. 6.5.7.5 Decision on Application

- (1) The local licensing authority has authority to refuse to approve, renew or transfer any license for good cause.
- (2) The local licensing authority may approve an application subject to conditions related to these Regulations, The Medical Marijuana Code, The Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.
- (3) Within thirty days after the public hearing or completion of the application investigation, whichever is later, the local licensing authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Sec. 6.5.7.6 Notice of Decision

The local licensing authority promptly shall notify the applicant and the state licensing authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

Sec. 6.5.7.7 Review of Local Licensing Authority Decision

If a license is approved, conditionally approved or denied following the public hearing by the local licensing authority, that decision shall be deemed final action and the sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part 8. DUTIES OF LICENSEE

Sec. 6.5.8.1 Notice of Changes

- (1) A licensee shall notify the local licensing authority in writing of the name, address, and date of birth of any new proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer,

manager and employees must pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification before owning, managing, or associating with the operation. A transfer of ownership of a license shall be subject to Part 10 of these Regulations.

(2) A licensee shall report each transfer or change of financial interest in the marijuana establishment to the state and local licensing authorities and receive approval prior to any transfer or change of the license. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

(3) A licensee shall report any change of trade name to the local licensing authority before using it.

Sec. 6.5.8.2 Possession of Licensed Premises

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

Sec. 6.5.8.3 Publicly Display Licenses

The licensee shall conspicuously display the local and the state-issued licenses at all times on the licensed premises.

Sec. 6.5.8.4 On-site Access to Occupational Licenses and Registrations

(1) All persons owning, managing, operating, employed by, working in or having access to restricted areas of a licensed premises of any licensee who are required by The Medical Marijuana Code, Retail Marijuana Code or the state administrative regulations promulgated pursuant thereto to have occupational licenses and registrations must at all times have a valid license and/or registration from the state licensing authority. At all times when on the licensed premises, all such persons shall have on their person, and conspicuously display their occupational licenses and registrations required by the state licensing authority. Copies of all such licenses issued by the state licensing authority shall be provided to the authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the Town has performed a background check and determined the proposed manager or employee to be temporarily

acceptable, then compliance with this Section 6.5.8.4 may be extended for up to ninety (90) days from the start of their employment.

Sec. 6.5.8.5 Compliance with Laws

A licensee shall at all times comply with and maintain the licensed premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations and all applicable state and local laws.

Sec. 6.5.8.6 Notices of Changes in State License Status

A licensee shall notify the local licensing authority in writing if its state license of the same type for the same type of activity at the same location as that issued by the local licensing authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Town Manager within four business days of the action by the state licensing authority. The licensee shall give a copy of a new or renewed state license to the local licensing authority within four business days of its receipt from the state.

Sec. 6.5.8.7 Notices to Public Safety Agencies

Before commencing operation, a licensee shall notify the Pagosa Fire Protection District and the local Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the licensed premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO₂ or CO₂-generating is used on the licensed premises, the method and the location. A licensee shall promptly, within no more than one week, notify the Pagosa Fire Protection District and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the local licensing authority.

PART 9. RENEWALS

Sec. 6.5.9.1 Time to Apply for Renewal License

(1) A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the local licensing authority before its expiration, the licensee may not operate.

(2) A licensee desiring a renewal of an existing license must apply for the renewal to the local licensing authority not less than sixty (60) days before the date of expiration of the current license. The local licensing authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement. Reasonable grounds include that the licensee has pending a timely-filed application for renewal of its state license. A licensee who files a renewal application and pays the requisite fees may continue to operate until the local licensing authority takes final action to approve or deny the renewal application. The local licensing authority shall not accept an application for renewal of a license after the date of expiration except as provided in this Section.

(3) Notwithstanding the provisions of this Section, a licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the state licensing authority, is pending, and the required fees have been paid. In those circumstances, the licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the licensee's late renewal application unless the state licensing authority summarily suspends or denies the license, in which case the licensee must cease operation immediately.

(4) The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the authority. The provisions of Part 5 shall govern the application form and processing as applicable. The application shall include confirmation of the seventy (70%) percent Archuleta County cultivation requirement as of the date of the application, and shall be supplemented with continued confirmation of such compliance as of the date of the hearing on the renewal application.

Sec. 6.5.9.2 Procedures; Action on Application

To the extent applicable, the provisions of Parts 5 and 7 shall govern processing and action on the application for renewal.

Sec. 6.5.9.3 Approval Criteria

The approval criteria in Part 6 hereof for approval of a new license shall be applicable to an application for a renewal. An approval may be granted subject to immediate suspension based on violations during the licensing term prior to the renewal of these regulations, The Medical Marijuana Code, The Retail Marijuana Code, or state regulations promulgated there under.

Part 10. TRANSFERS

Sec. 6.5.10.1 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different premises, or to a different owner or licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Sec. 6.5.10.2 License Transfers Allowed

A licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different premises within the Town, subject to prior application to, and approval by, the local licensing authority and in compliance with The Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Sec. 6.5.10.3 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the authority.

Sec. 6.5.10.4 Approval Criteria

The approval criteria in Part 6 hereof for approval of a new license shall be applicable to an application for a transfer.

Sec. 6.5.10.5 Procedures; Action on Application

The local licensing authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts 5 and 7 shall govern processing and action on the application for transfer.

Sec. 6.5.10.6 Period of Transferred License

Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall expire upon the expiration of the corresponding license of the same type for the same activity at the same location issued by the state licensing authority.

Part 11. ENFORCEMENT

Sec. 6.5.11.1 Inspection

(1) The local licensing authority shall have the rights of entry upon and into and inspection of the premises and records of a licensee to the fullest extent authorized by The Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

(2) The local licensing authority shall at all times during the licensee's business hours, upon request, be admitted to the licensed premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The local licensing authority may request to inspect during non-business hours if the licensee's normal business hours are inconsistent with typical business hours.

Sec. 6.5.11.2 Enforcement Actions

To enforce compliance with these regulations, the local licensing authority may pursue any or all of the following actions:

- (1) Deny the renewal or transfer of a license;
- (2) Impose conditions on the renewal or transfer of a license;
- (3) Suspend or revoke a license;
- (4) Pursue the abatement of the violation as a public nuisance, pursuant to Section 1.5.4.1(5) and Article 2, Chapter 11 of the Pagosa Springs Municipal Code;

- (5) Obtain in the Pagosa Springs Municipal Court an order for injunction, abatement, restitution, or other remedy necessary to prevent, enjoin, abate or remove the violation;
- (6) Prosecution of any violator pursuant to Section 1.3.3 of the Municipal Code;
- (7) Prosecution of any violation pursuant to Sections 12-43.4-901, 12-43.3-901 and 18-1.3-501, C.R.S; and
- (8) Fines of not less than \$500 nor more than \$1,000 in lieu of suspension of fourteen (14) days or less, pursuant to Sections 12-43.3-601(3) and 12-43.4-601(3), C.R.S.

Sec. 6.5.11.3 Hearing; Suspension, Revocation of License

- (1) A license issued pursuant to these Regulations may be suspended or revoked by the local licensing authority after a hearing for any of the following reasons:
 - (a) Fraud, misrepresentation or a false statement of material fact contained in the license application;
 - (b) A violation of any Town, county, state or federal law or regulation with respect to the ownership or operation of the marijuana establishment or with respect to the licensed premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64 to The Colorado Constitution;
 - (c) A violation of any of the terms and conditions of the license;
 - (d) A violation of any of the provisions of these Regulations;
 - (e) The corresponding state license has been suspended or revoked by the state licensing authority; or
 - (f) The licensed premises have been inactive without good cause for at least six months.

(2) A licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.

(3) Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.

(4) If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes that the licensee has engaged in a different violation of these Regulations, The Medical Marijuana Code or The Retail Marijuana Code, as applicable, or an order of the state or local licensing authority, the licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.

(5) The burden of proof shall be on the Town to show that grounds exist for suspension or revocation of the license.

(6) Any decision made by the local licensing authority pursuant to this Section shall constitute the final decision of the Town, is effective immediately unless otherwise stated in the decision, and may be appealed pursuant to Rule 106(a)(4) of The Colorado Rules of Civil Procedure.

(7) No fee previously paid by a licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Sec. 6.5.11.4 These Enforcement Provisions are not Exclusive

The enforcement provisions expressly stated in these regulations are not exclusive. The Town and local licensing authority shall have any and all enforcement powers afforded by the Charter, Municipal Code, state statutes, and state regulations. In addition to all other remedies available to the Town under these Regulations or by other law, including The Medical Marijuana Code, The Retail Marijuana Code and the state regulations promulgated thereto, violations may be prosecuted in the Town of Pagosa Springs Municipal Court or any other court of competent jurisdiction.

Sec. 6.5.11.5 Deference to State Licensing Authority

The authority may defer to the state to enforce compliance with the requirements in The Medical Marijuana Code and The Retail Marijuana Code.

Part 12. FEES

Sec. 6.5.12.1 Fees Set by Resolution

The Town Council may set and revise application, license and operating fees by resolution.

Sec. 6.5.12.2 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Town Fee Schedule.

Sec. 6.5.12.3 Retail Marijuana Establishments – Application Fees

Application fees for retail marijuana establishment licenses are determined by The Retail Marijuana Code and collected by the state licensing authority.

Sec. 6.5.12.4 Retail Marijuana Establishments – Operating Fees

(1) Operating fees shall be set with the objective of offsetting the cost to the Town of administering these Regulations.

(2) Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Town's Fee Schedule, in addition to the application fee received by the local licensing authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any retail marijuana establishment license that was fully converted from a medical marijuana establishment license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

(3) If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license,

including an application for transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the local licensing authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the authority that the fee is not sufficient to cover all consulting costs associated with the application. If the authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

Sec. 6.5.12.5 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the licensee qualifies for consideration of that late renewal pursuant to Section 6.5.9.1, the renewal application must be accompanied by a late renewal penalty, if any, as stated on the Town Fee Schedule.

Sec. 6.5.12.6 Payment of Fees

All fees are due and must be paid before any application is deemed complete. All funds must be remitted in the form of a business check or certified funds.

Part 13. PATIENTS AND PRIMARY CAREGIVERS

Sec. 6.5.13 Patients and Primary Caregivers.

(1) Nothing in this Article shall be construed to prohibit or otherwise impair the use of medical marijuana by patients, in accordance with The Colorado Constitution and consistent with Section 25-1.5-106, C.R.S. and rules promulgated thereunder, as may be amended from time to time.

(2) Primary care-givers within the Town are authorized to engage only in those activities regarding medical marijuana that are set forth in Section 14 of Article XVIII of The Colorado Constitution, as defined and limited by Section 25-1.5-106, C.R.S. Primary care-givers who engage in the sale of medical marijuana and/or who charge for care-giver services, shall be deemed to be operating a business within the Town and shall obtain a

business license pursuant to Section 6.1.3 of the Pagosa Springs Municipal Code.

(3) Primary care-givers and patients who engage in the cultivation of medical marijuana or the provision of care-giver services within the Town, whether for compensation or not, shall comply with all regulations of general applicability within the Town, including zoning regulations and uniform codes.



TOWN OF PAGOSA SPRINGS, COLORADO

RESOLUTION 2016-13

**A RESOLUTION COMMUNICATING THE PREFERENCE
OF THE TOWN COUNCIL ON THE FUTURE LOCATION
OF ARCHULETA COUNTY JUSTICE FACILITIES**

WHEREAS, the Town of Pagosa Springs is the County Seat and only incorporated municipality in Archuleta County; and

WHEREAS, Colorado State Statute requires the jail and District and County Courts to be located within the Town limits of the County Seat; and

WHEREAS, all County justice facilities, which includes the Sheriff's Office, County Jail, District and County Courts, and Probation Offices have been located in the current Courthouse located downtown on San Juan Street since 1928; and

WHEREAS, Archuleta County has been working with the State Courts to explore options for expanding and improving the space for courts use; and

WHEREAS, in April 2015 the County Jail experienced flooding to such an extent as to close the jail and require the transport of Archuleta County and Town of Pagosa Springs prisoners to the La Plata County Jail, which continues today; and

WHEREAS, the County is presently contemplating two separate locations for future County justice facilities, generally known as "uptown" and "downtown"; and

WHEREAS, one of the 2016 adopted Town Council Goals is "Recognize and value the downtown as the community's heart"; and

WHEREAS, the current Archuleta County Commissioners have also committed to the concept of the downtown being the "heart" of the community; and

WHEREAS, it is also believed that cost is only one of many factors that should be considered when constructing new governmental facilities; and

WHEREAS, the proposed downtown location allows for further expansion over time and the uptown location does not; and

WHEREAS, the Town Council certainly acknowledges the decision for the location of the County justice facilities is at the sole discretion of the County Commissioners;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
PAGOSA SPRINGS, COLORADO THAT:**

The Pagosa Springs Town Council respectfully desires to communicate to the County Commissioners the Town's preference that the County justice facilities be located at the proposed downtown location.

This Resolution, shall be effective immediately upon its passage, and shall be recorded in the official records of the Town kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

ADOPTED THIS 6TH DAY OF SEPTEMBER 2016, BY THE TOWN COUNCIL OF THE
TOWN OF PAGOSA SPRINGS, COLORADO, BY A VOTE OF _____ IN FAVOR,
_____ AGAINST.

By: _____
Don Volger, Mayor

ATTEST:

April Hessman, Town Clerk