

## Title 11

### MEDICAL AND RETAIL MARIJUANA REGULATIONS

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#### GENERAL PROVISIONS

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##### 11.01.010 Definitions.

The following words and phrases shall have the following meaning for the purposes of this chapter, unless the context clearly indicates otherwise:

**Applicant** is an agent under written authority, who applies on behalf of a domestic entity as defined under C.R.S. § 7-90-102(13) to operate a retail or medical marijuana store, so long as the written authority is signed by all controlling owners with more than twenty-five percent ownership interest in the domestic entity or its sub entities or an individual, if applying prior to forming a domestic entity.

**Controlling Owner(s)** means any person(s) or domestic entity, along with sub entities or person(s), owning more than a 25% interest in the business applying for the license.

**Local Licensing Authority** is the Town of Cedaredge Board of Trustees.

**Major Modification** means any (1) increase or decrease in the total physical size or capacity of the licensed premises, (2) sealing off, creation of or relocation of a common entryway, doorway, passage, or other such means of public ingress and/or egress, walk-up window or drive-up window, when such common entryway, doorway, or passage, walk-up or drive-up window alters or changes limited access areas, as defined by the State of Colorado, (3) physical modification that requires installation of additional video surveillance cameras by the State of Colorado, or (4) physical modification that requires a Town of Cedaredge building permit.

**Marijuana License Cap** is the maximum licenses issued by the Town at any one time being two (2) retail and two (2) medical.

**Medical Marijuana Store** is a person licensed to operate a business under C.R.S. § 44-10-104, as amended, that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution, but is not a primary caregiver.

**Planning Commission** means the Planning & Zoning Commission defined and appointed under Cedaredge Municipal Code, Section 16.03.060.

**Point and Weight System** is the competitive application process which uses a Point and Weight Worksheet, approved by the Local Licensing Authority from time to time, to award points upon review of an application using predetermined criteria and weighting.

**Private Residence** means private premises where a person lives, such as a private dwelling place or place of habitation, and specifically excludes any premises located at a school or on the campus of an institution of higher education, or any other public property.

**Retail Marijuana Store** is an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers, as set forth in Section 16 of XVIII of the Colorado Constitution.

**Staff** means Town Administrator or authorized designee.

**Town** is the Town of Cedaredge.

**Town Marijuana Code** is this Title 11 regulation, and all other applicable Town codes, policies, resolutions, or ordinances.

#### **11.01.020 License Required.**

It is unlawful for any person or domestic entity to own or operate a medical or retail marijuana store within Town limits without first having obtained a license from the Town and the State of Colorado for each facility to be operated in connection with such business.

#### **11.01.030 Local Licensing Authority.**

- A. The Local Licensing Authority may enact all reasonable regulations applicable to medical and retail marijuana stores based on local government zoning, health, safety, and public welfare laws for the distribution of medical and retail marijuana.
- B. Local regulations concerning medical marijuana stores may be more restrictive than those in Article 10 of the Colorado Revised Statutes, while regulations concerning retail marijuana stores may be no less restrictive.

- C. The Local Licensing Authority has final review and approval of all licenses for marijuana stores or marijuana delivery permits, and any decision to grant or deny, to revoke or suspend or to renew or not renew a license or permit shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- D. In the case of applications resubmitted to the Town directly pursuant to Section 16(5)(h) of Article XVIII of the Colorado Constitution, due to failure of the state licensing authority to act upon an application within ninety (90) days, the Local Licensing Authority will act and approve or deny the same within ninety (90) days after receipt of the resubmitted application so long as demonstrated compliance with all applicable Town regulations is had, and the full application fee is paid to the Town, if not forwarded by the State.
- E. The Local Licensing Authority delegates to Staff the acceptance and processing of all applications for marijuana stores, collection of fees, and maintenance of such applications, forms, and administrative materials as may be required for operation and management of licenses.
- F. The Local Licensing Authority delegates to Staff the responsibility to take administrative actions involving reporting or confirming local approvals of changes in business names, agents, addresses, and similar non-policy matters with state regulators, and to administratively approve license renewal as authorized herein.
- G. The Planning Commission acts as a recommending body to the Local Licensing Authority concerning review of the site development plan in accordance with Cedaredge Municipal Code, Section 16.10.030.
- H. Staff shall act as the recommending body to the Local Licensing Authority concerning applicants' award of points using the Point and Weight System, except Local Licensing Authority shall make the final determination as to the points awarded by a majority vote. The Point and Weight System is the primary selection tool used by Local Licensing Authority when granting a license for competing applications.
- I. Local Licensing Authority may impose reasonable terms or conditions on a license, or deny a license, modification, or renewal of a license, as may be necessary to protect the public health, safety, and welfare of the people of the Town, and to obtain compliance with Town Marijuana Code, applicable state law, and other provisions of the Cedaredge Municipal Code.
- J. All approvals by the Local Licensing Authority will consider whether the proposed activity or facility is compatible with adjacent land uses.
- K. The Local Licensing Authority may deny a license, modification, or renewal of a license if information is presented demonstrating that material information in the application for the initial or prior license was untruthful, misleading, contained material

omissions, misstatements or was otherwise intentionally or purposefully calculated to mislead the Local Licensing Authority about any material information, including ownership of the facility, owners, directors, managers, or holders of financial interest in the applicant.

#### **11.01.040 General License Requirements.**

- A. Compliance with law. All marijuana stores must comply with this Town Marijuana Code, applicable state law, and any other local laws or regulations. The Local Licensing Authority may revoke any license if the marijuana store fails to comply.
- B. Building codes. All marijuana premises must comply with current building codes adopted by the Town.
- C. Zoning. Medical Marijuana Stores are allowed on property located within MU-C-D1 Mixed-Use Commercial District, B-1 Business District, and MU-R Mixed-Use Residential District. Retail Marijuana Stores are allowed on property located within MU-C-D1 Mixed-Use Commercial District and B-1 Business District. Marijuana stores are not permitted within any other zoning district or within any building that contains a residential dwelling or lodging unit. Marijuana stores shall not be permitted to operate as home occupations.
- D. Other location requirements.
  - 1. No marijuana store shall be issued a license if, at the time of the initial application for such license, the proposed location is:
    - a. Within five hundred (500) feet of any educational institution or school, public or private; or
    - b. Within two hundred (200) feet of any existing licensed childcare facility at the time of initial application.
  - 2. The distances above are computed by direct measurement from the nearest point of the building used for the sale of marijuana to the nearest portion of the building used for the purposes stated above, using a route of direct pedestrian access. This location criteria applies to all proposed changes in the location of an existing license.
- E. Co-location. A Retail Marijuana Store may be located on the same licensed premises as a Medical Marijuana Store and may be operated by the same licensee, subject to compliance with all state requirements and the requirements of this Town Marijuana Code, and the issuance of a state license allowing for such co-location.
- F. Signs. Signs are allowed in compliance with all applicable state laws, including but not limited to the Outdoor Advertising Act, C.R.S. § 43-1-401, et. seq., and Cedaredge Municipal Code, Chapter 12.

- G. Indoor operation. All marijuana store activities (except transportation) shall be conducted indoors. Products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.
- H. Inspection of licensed premises. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Chief of Police or the Building Official for the purpose of investigating and determining compliance with the provisions of this Chapter and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records, and inventory. Where any part of the premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.
- I. Business license. All marijuana store licensees must have a Town business license.
- J. Hours of operation. Marijuana stores may only be open for the sale or distribution of retail marijuana during the hours of 9:00 a.m. to 9:00 p.m. unless the Local Licensing Authority authorizes extended hours of operation as a provision of the license. Such extension may be authorized after determining that such hours of operation are reasonably appropriate for the neighborhood.
- K. Parking. Parking is required in accordance with Cedaredge Municipal Code, Section 16.03.12.
- L. Indemnification. Upon submittal of an application, Applicant agrees to indemnify and hold the Town harmless from injury, claims, losses, or damages.

**11.01.050 Optional Uses.**

- A. Internet sales. The Town allows orders to be taken by a retail or medical marijuana store by phone or internet, so long as the State of Colorado allows it, and any marijuana store must abide by all state regulations.
- B. Delivery services. Both medical and retail marijuana stores may apply for a delivery permit issued by the Town, approved by the Local Licensing Authority from time to time.
  1. Any person delivering retail or medical marijuana or products must have a delivery permit issued by the State of Colorado under C.R.S. § 44-10-501 or 601, and any rules promulgated thereon, as amended from time to time.
  2. In addition to meeting all State of Colorado requirements for a delivery permit, any vehicle that will be used for delivery of marijuana or products shall be physically inspected by the Town Police Department as a requirement of the Town permit.

3. Delivery of retail or medical marijuana or products must be by a vehicle inspected by the Town, to a person authorized under state law, at a Private Residence, and no more than one delivery to a Private Residence in a twenty-four hour period.
4. Delivery of retail or medical marijuana and/or products is prohibited outside the Town's jurisdictional boundaries.
5. In accordance with state law, each licensed retail or medical marijuana store that operates under a valid delivery permit will collect a one-dollar surcharge on each delivery and remit the surcharges collected monthly to the Town in accordance with the regulations and penalties set forth in Section 11.010.070 below.

C. Drive through. On premise drive throughs are permitted in B-1, Business District and MU-C-D1 Mixed Use Commercial, as allowed under state law.

**11.010.60 Prohibitions.**

A. The following are prohibited in the Town of Cedaredge:

1. Mobile structures used to dispense marijuana.
2. Automatic dispensing machine used to dispense marijuana.
3. Alcohol sales or consumption on the licensed premises.
4. Persons who do not possess a valid identification or other appropriate proof of age who loiter on or about the licensed premises.
5. On-site consumption of marijuana.
6. Delivery of marijuana or products inside Town's jurisdictional boundaries to Private Residences without a Permit.
7. It is unlawful for any person or domestic or foreign entity, as defined in C.R.S. § 7-90-102(13) or (23), to operate, cause to be operated, or permit to be operated, any marijuana cultivation facilities, marijuana product manufacturing facilities, and testing facilities, within the Town's jurisdictional limits, and all such uses are hereby prohibited in any location within the Town, or within any area hereinafter annexed to the Town.
8. No Licensee may hold both licenses for retail marijuana stores or medical marijuana stores so as to create a monopoly.

**11.010.070 Sales Tax and Delivery Surcharge.**

- A. An additional sales tax is imposed upon all sales of retail marijuana or products sold within the Town by licensed retail marijuana stores at the rate of five percent (5%) of the gross price paid by the purchaser, rounded off to the nearest penny. The tax imposed by this Section is in addition to, and not in lieu of, the sales tax owed to the Town and all taxes owed to the State in connection with the sale of retail marijuana and retail marijuana products.
- B. There shall be no Vendor Fee, as set forth in Cedaredge Municipal Code, 3.04.050-B, on marijuana sales tax remittance.
- C. Medical marijuana is tangible property which is subject to sales tax in accordance with C.R.S. § 39-26-105, and all licensees are responsible to remit sales tax.
- D. Failure to remit any sales tax or delivery surcharge on or before the 20<sup>th</sup> day of each month is grounds for immediate license suspension or revocation. Late payments for any taxes owed to the Town shall accrue a penalty of \$100 per day for each day the payment is missed after the due date.

Chapter 11.02

APPLICATION PROCESS

Sections:

- 11.02.010 Application Requirements.
- 11.02.020 Fees and License Term.
- 11.02.030 Applicant Investigations.
- 11.02.040 Public Hearing – Notice – Publication.
- 11.02.050 License – Issuance or Denial.
- 11.02.060 Modification of Ownership Structure.
- 11.02.070 Modification of Premises.
- 11.02.080 Ownership Transfer

**11.02.010 Application Requirements.**

- A. A person seeking to obtain a license pursuant to this Title 11 must submit the Town approved application to the Town Clerk after a notice has been published by the Town which establishes a deadline for acceptance of such applications for an open license.
- B. The Town Clerk shall review the applications received for completeness. If the Town Clerk finds an application is incomplete, the Town Clerk shall notify the Applicant in writing of the deficiencies and allow the Applicant to correct such deficiencies within ten (10) days from the date of the notice.
- C. The inclusion of preliminary plans does not render the application incomplete, so long as the application includes documentation that an appropriate professional has been retained and a deadline has been established for submission of final plans.

- D. An issued license does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the marijuana stores, including, without limitation, any development approval required by this Code; a sales tax license; a Town of Cedaredge business license; and a building, mechanical, plumbing, or electrical permit.
- E. An application shall include the following information and any additional information required by the Town Clerk.
1. Applicant's name, address, telephone number, social security number and date of birth, and the name(s), address(es), date of birth, and social security numbers for all Controlling Owners with more than twenty-five percent ownership interest in the domestic entity or any sub entities.
  2. A completed set of the Applicant(s) and Controlling Owner(s) fingerprints.
  3. The street address of the proposed marijuana store.
  4. Proof of ownership, or if the applicant is not the owner of the proposed location of the retail marijuana store, satisfactory proof that the applicant is or will be entitled to possession of the premises under a lease, rental agreement, or other written agreement, including authorization to use the premises for a marijuana store for a minimum of one year for which the application is made.
  5. An acknowledgment that the applicant and its owners, officers and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances; that the Town accepts no legal liability in connection with the approval and subsequent operation of the marijuana store; and that the application and documents submitted for other approvals relating to the marijuana store operation are subject to disclosure in accordance with the Colorado Open Records Act or other applicable law.
  6. A Site Development Plan and architectural elevations submitted in accordance with Cedaredge Municipal Code, Chapter 16.04.
  7. A traffic, parking impact, and/or drive through analysis, including current background traffic information, completed by a licensed engineer which minimizes traffic congestion, provides for off-street parking for all uses including recreational vehicles and trailers, includes traffic circulation drives and aisles plan, a parking layout, and ingress and egress to an improved public right-of-way so located to promote safety, and adequate turning radius.
  8. A business plan.
  9. A floor plan of the proposed store.



10. A signage plan.
11. All marijuana stores shall be equipped with proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the retail marijuana store or any adjoining business, parcel, or tract of real property. All applicants for a new retail marijuana store license shall submit a ventilation and odor mitigation plan with their application, which shall be subject to review and approval by the Local Licensing Authority prior to issuance of a new license.
12. Certification that Applicant and all individual Controlling Owners are not prohibited from becoming a licensee due to violating provisions of C.R.S. § 44-10-307.
13. In addition to the foregoing, an applicant shall also submit all other information required by any other state and local applications, if requested by Staff.

#### **11.02.020 Fees and License Term.**

- A. When the application is filed, the applicant shall pay to the Town the applicable application fee, as set forth by resolution, plus the local share of the state application fee, as established by state statute, unless the State has already forwarded such fee to the Local Licensing Authority. Said local share of state application fee will be refunded to Applicant when state submits the local share of state fee to the Town.
- B. Any renewal application filed late will be subject to a late fee and Staff has no authority to waive such late fee.
- C. If an application is approved, the applicant shall pay an annual operating fee, if applicable, in such amount as may be established from time to time by the Board of Trustees as adopted from time to time by Resolution.
- D. Each license issued pursuant to this Title 11 shall be valid for a period of one (1) year from the date of issuance and may be renewed as provided in this Section. An application for renewal shall be made to Staff not less than sixty (60) days prior to the date of expiration and concurrent with the application for renewal filed with the state licensing authority, as required.

#### **11.02.030 Applicant Investigation.**

- A. After all applications are accepted as complete by the Town Clerk, the Town Clerk shall transmit copies of the application to the Police Department, the Town Administrator, the Planning and Building Department and the Town Attorney and no further amendments shall be permitted.

- B. In investigating the fitness of the applicant, the Town may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Town takes into consideration information concerning the applicant's criminal history record, the Town shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a license.
- C. The license will be administratively renewed by Staff unless the renewal is denied by the state licensing authority or unless it appears to Staff that good cause exists to deny the renewal application, in which case Staff shall refer the application to the Local Licensing Authority for review at a public hearing.
- D. Good cause for referral to the Local Licensing Authority includes, the licensee has any unresolved or unmitigated complaints filed against it, or the licensee has a history of three or more violations or allegations against the licensee that would constitute good cause for denial of a license. The procedures provided in Section 11.01.030 above shall apply to the Local Licensing Authority's review and determination whether to renew a license. A review by the Local Licensing Authority requires an additional fee equal to one-half the application fee for that term paid prior to the Local Licensing Authority's review.
- E. The ventilation and odor mitigation plan will be reviewed and approval by Staff each renewal period. Staff may refer such plan submitted with a renewal application for review by the Local Licensing Authority, who will conduct such review, with or without a public hearing.
- F. The lack of an approved ventilation and odor mitigation plan shall be grounds for denial of a new license or renewal of an existing license. Failure to install or maintain the ventilation system required by an approved ventilation and odor mitigation plan shall constitute a violation of this Title 11 and shall be grounds for suspension or revocation of a license.
- G. Staff will begin processing a new license application concurrently with the state licensing authority's application. Prior to issuing the local license the Town shall have the right to investigate the state application in any manner.

**11.02.040 Public Hearing – Notice – Publication.**

- A. Upon receipt of an application for a local license, except an application for renewal or for transfer of ownership, the Local Licensing Authority shall schedule a public hearing upon the application, to be held not more than sixty (60) days after the date of the application completeness, unless extended for good cause. The Applicant shall post and publish public notice thereof not less than ten (10) days prior to the hearing. The Applicant

shall give public notice by the posting of a sign in a conspicuous place on the retail or medical marijuana store for which application has been made and by publication in a newspaper of general circulation in the County, and written notice by certified letter, return receipt requested, sent to any property owners within a 200' radius of the property line of the proposed premises.

- B. Public notice by posting shall include a sign of suitable material not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one (1) inch in height, and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. The sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed.
- C. Public notice given by publication shall contain the same information as that required for the posting of signs.
- D. If the building in which a marijuana store is to be located is in existence at the time of the application, the sign shall be posted to be conspicuous and plainly visible to the public. If the building is not constructed at the time of the application, the applicant shall post a sign at 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 public.

#### **11.02.050 License – Issuance or Denial.**

- A. Not less than five (5) days prior to the date of the public hearing, Staff shall make known its findings, based on its investigation, in writing to the applicant and other parties of interest. The Local Licensing Authority has authority to refuse to issue a license for good cause, subject to judicial review.
- B. Before entering a decision approving or denying the application for a local license, the Local Licensing Authority may consider, except where this Title 11 specifically provides otherwise, the facts and evidence adduced as a result of Staff investigation, as well as any other facts pertinent to the application, including the number, type and availability of marijuana stores located in or near the premises under consideration and any other pertinent matters affecting the qualifications of the applicant.
- C. Within five (5) days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The Local Licensing Authority shall send a copy of the decision by mail to the applicant at the address shown in the application.
- D. After an award of a license, the Local Licensing Authority shall not issue a local license until the premises are ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of this Title, and then only

after the Town Building Inspector has inspected the premises to determine that the applicant has complied with these regulations and any License conditions imposed by the Local Licensing Authority.

- E. If a license is awarded to an Applicant, the Licensee shall be open to the public within six months of the date of the award, unless the Local Licensing Authority extends the deadline for good cause shown. Absent an extension, if the store is not open to the public by the deadline, the license is automatically revoked.
- F. After approval of an application for local licensure, the Applicant shall notify the state licensing authority of such approval by submitting the license containing the following:
  - 1. The name of licensee, date of license issuance, and physical and mailing address of the licensed premises.
  - 2. Any conditions of approval imposed by the Local Licensing Authority.
  - 3. The license expiration date; and
  - 4. The signature of the Applicant and the Town Clerk.

**11.02.060 Modification of Ownership Structure.**

- A. In determining whether to allow a modification of ownership structure, the Local Licensing Authority shall consider the requirements of these regulations and the modification of ownership structure application filed by the Licensee.
- B. No change in ownership structure will be approved unless the Licensee has held its license for at least one year from the time the medical, retail, or co-located store opened to the public.
- C. The license will be administratively modified by Staff unless the modification is denied by the state licensing authority or unless it appears to Staff that good cause exists to deny the renewal application, in which case Staff shall refer the application to the Local Licensing Authority for review at a public hearing.

**11.02.070 Modification of Premises.**

- A. Major modification of the licensed premises is prohibited unless the Local License Authority approved the major modification.
- B. In determining whether to allow a Major Modification of premises, the Local Licensing Authority shall consider the requirements of these regulations and the modification of premises application filed by the Licensee.

- C. Upon receipt of a Major Modification application, the Town shall treat such modification the same as it does for an initial application and a public hearing in accordance with Section 11.02.040 is required prior to issuing the modification.
- D. A change in location shall be considered a modification of premises for purposes of processing the change in location application.

**11.02.80 Ownership Transfer.**

- A. In determining whether to allow a transfer of ownership, the Local Licensing Authority shall consider the requirements of these regulations and the transfer filed by the Licensee.
- B. No transfer of ownership will be approved unless the Licensee has held its license for at least two (2) years from the time the medical or retail marijuana store opened to the public, except that the Local Licensing Authority may waive this requirement if the Licensee shows good cause.
- C. The Local Licensing Authority may hold a hearing on the application for a transfer of ownership, provided that the Local Licensing Authority shall not hold a hearing pursuant to this Section until the Applicant has posted a notice of hearing the manner described in Section 11.02.030. A transfer fee shall accompany each application for a transfer of ownership, in such amount as is established from time to time by the Board of Trustees by resolution.

Chapter 11.04

ENFORCEMENT

Sections:

- 11.04.010 Suspension or Revocation.
- 11.04.020 Penalty.

**11.04.010 Suspension or Revocation.**

- A. The Local Licensing Authority may revoke or elect not to renew any license if it determines that the licensed premises were not open to the public for a period of three (3) months or more, where each day the Licensee is not open to the public is counted whether consecutive or not.
- B. In addition to any other sanctions prescribed by this Title, the Local Licensing Authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke a license issued by the Local Licensing Authority for a violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this Title 11 or of any of the terms, conditions, or provisions of the license. The Local Licensing

Authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of a hearing that the state or Local Licensing Authority is authorized to conduct.

- C. The state licensing authority or Local Licensing Authority shall provide notice of suspension, revocation, fine or other sanction, as well as the required notice of the hearing pursuant to Section 11.02.030, and by mailing the same in writing to the licensee at the address contained in the license. Except in the case of a summary suspension, a suspension shall not be for a longer period than six (6) months. If a license is suspended or revoked, a part of the fees paid therefor shall not be returned to the licensee. Any license or permit may be summarily suspended by the Local Licensing Authority without notice pending any prosecution, investigation, or public hearing pursuant to the terms of C.R.S. § 24-4-104(4).
- D. Whenever a decision of the Local Licensing Authority suspending a license for fourteen (14) days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the Local Licensing Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the Local Licensing Authority is satisfied that:
  - 1. The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary and deterrence purposes.
  - 2. The books and records of the licensee are kept in such a manner that the loss of sales that the licensee may suffer if the suspension goes into effect can be determined with reasonable accuracy; and
  - 3. The licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint that resulted in a final decision to suspend the license or permit.
- E. The fine accepted shall be not less than two thousand dollars (\$2,000.00) nor more than five thousand dollars (\$5,000.00).
- F. Payment of a fine shall be in the form of cash, a certified check or a cashier's check made payable to the Local Licensing Authority.
- G. Upon payment of the fine pursuant to subsection (C) above, the Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension.

**11.04.020 Penalty.**

Failure to comply with the provisions of this Title 11 shall constitute a violation, and in addition to being grounds for denial, suspension or revocation of a license, such violation may be punished by a civil penalty not less than two thousand dollars (\$2,000.00) nor more than five thousand dollars (\$5,000.00) with each day being a separate violation. Proceedings for the determination of such liability and imposition of such civil penalty shall be conducted in the Municipal Court in the same manner as proceedings relating to noncriminal Town municipal code infractions and upon the issuance of a complaint and summons. In no case shall any defendant found guilty of any violation of this Title 11 be punished by imprisonment for such violation.

(Ordinance 2021-02)