

Town of Norwood Marijuana Code

Business Licenses & Regulation

**Retail & Medical Marijuana Sales, Manufacturing, Testing Codes**

**I. Legislative intent and purpose.**

1. Legislative intent: The Board of Trustees of the Town intends to regulate the use, acquisition, cultivation, production and distribution of retail and medical marijuana in a manner consistent with:
  - a. Section 16 of Article XVIII of the Colorado Constitution ("Retail Marijuana Amendment") and in accordance with the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. (the "Colorado Retail Marijuana Code") and regulations adopted by the State of Colorado thereunder.
  - b. The Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S., which imposes statewide regulations pertaining to the cultivation, manufacture, distribution and sale of retail marijuana and for the licensing of retail marijuana business establishments. Such legislation also permits local licensing of such establishments. However, the State law is not intended to, and does not, address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana establishments.
  - c. Article XVIII, Section 14 of the Colorado Constitution (the Medical Marijuana Amendment).
    - i. The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana, or the marijuana is grown by the patient's primary caregiver.
    - ii. House Bill 10-1284, signed by the Governor on June 7, 2010, enacts Article 43.3 of Title 12, C.R.S., (the Colorado Medical Marijuana Code) which imposes statewide regulations pertaining to the use, acquisition, cultivation, production, sale and distribution of medical marijuana and medical marijuana-infused products within the State.
  - d. House Bill 17-1220, signed by the Governor in June 2017, enacts amendments to certain sections of C.R.S. including 18-18-406, 25-1.5-1-106 establishing certain limitations on the total number of plants that can be grown for recreational and medical use to 12 plants per residential property.
  - e. The use, distribution, cultivation, production, possession and transportation of marijuana remains illegal under federal law, and marijuana is still classified as a "Level 1 Controlled Substance" under federal law. Nothing within this code is intended to promote or condone the production, use, sale or distribution of recreational or medical marijuana other than in compliance with applicable local and State law and the Colorado Constitution.
  - f. This code is to be construed to protect the interests of the public over marijuana business interests. Operation of a retail or medical marijuana business establishment is a revocable

privilege and not a right within the Town. There is no property right for an individual to have a business to sell marijuana within the Town of Norwood.

2. **PURPOSE:** To protect the health, safety and welfare of the residents of the Town by prescribing the time, place and manner in which marijuana businesses may be operated within the Town. In addition, the purpose of this Code is to:
  - a. Provide for the safe sale of marijuana to persons legally permitted to obtain, possess and use marijuana for recreational and medical purposes in accordance with the Recreational Marijuana Amendment and the Medical Marijuana Amendment.
  - b. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air quality, food safety, public safety, security for the businesses and their personnel, and other health and safety concerns.
  - c. Limit the number of marijuana businesses that can be established within the Town based on the desires of the inhabitants.
  - d. Impose fees in an amount sufficient to cover the direct and indirect cost to the Town for licensing and regulating retail marijuana establishments.
  - e. Allow retail marijuana stores, retail marijuana product manufacturing facilities and retail marijuana testing facilities to operate in compliance with all applicable Town Codes.
  - f. Adopt a mechanism for monitoring compliance with the provisions of this Code.
  - g. Create regulations that address the particular needs of the patients and residents of the Town and coordinate with laws enacted by the State that pertain to such matters.
  - h. Facilitate the implementation of the Marijuana Amendments without going beyond the authority granted by such Amendments.

## **II. Definitions.**

The following words and phrases used in this Code shall have the following meanings unless the context clearly indicates otherwise:

1. *Adjacent grounds* means all areas that the licensee has a right to possess by virtue of his or her ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots and similar areas and all fixed and portable things in such areas, including but not limited to lights, signs and security devices.
2. *Applicant* means a person who has submitted an application to the Norwood Local Licensing Authority pursuant to this Code to operate a retail or medical marijuana establishment, which application has not been approved or denied by the Authority.
3. *Advertised, advertising or advertisement* means the act of drawing the public's attention, whether through print, signs, telephonic, electronic, wireless or digital means, to a retail marijuana establishment or retail marijuana testing facility in order to promote the sale, cultivation, or testing of marijuana by the business.

4. *Business manager* means the individual(s) designated by the owner of a retail or medical marijuana businesses including store, marijuana product manufacturing facility, or marijuana testing facility who are registered with the Town as the person(s) responsible for all operations of the business during the owner's absence from the business premises.
5. *Character and record* includes all aspects of a person's character and record, including but not limited to, moral character; criminal record including serious traffic offenses; record of previous sanctions against liquor licenses, gambling licenses, retail marijuana licenses, or medical marijuana licenses, which the person owns, in whole or in part, and which the person serves as a principal, manager or employee; education, training, experience; civil judgments entered against the person; truthfulness, honesty; and financial responsibility. The conviction of any person for any offense, shall not, in itself, be grounds for a finding of a bad character and record if such person demonstrates that he/she has been rehabilitated in accordance with Section 24-5-101, C.R.S. In the event the Local Licensing Authority considers information concerning the criminal history of a person, the Local Licensing Authority shall also consider any information provided by an applicant regarding such criminal history records, including but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction and the time of consideration of a license application.
6. *Co-located marijuana business* means a medical marijuana business that has a license pursuant to this Municipal Code that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical marijuana center and a retail marijuana store as a separate business premises with separate licenses from the Town within the same footprint and owned by the same person(s) or entity.
7. *Colorado Marijuana Code* shall mean Article 43.4 of Title 12, C.R.S., Article XVIII, Section 14 of the Colorado Constitution, and Article 43.3 of Title 12, C.R.S. as the same may be hereafter amended, and any rules or regulations promulgated thereunder.
8. *Contiguous* means located within the same building as the marijuana business, located in a separate building on the same parcel of land as the marijuana business, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the marijuana business is located.
9. *Direct beneficial interest owner* means a person or closely held business entity that owns a share or shares of stock in a licensed marijuana business, including the officers, directors, managing members, or partners of the licensed marijuana business or closely held business entity, or a qualified limited passive investor.
10. *Good cause*, for purpose of denial of an initial, renewal, or reinstatement of a license application, or for the imposition of disciplinary action against an existing licensee shall mean:
  - a. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms and conditions of this Code or provisions of the Colorado Marijuana Code, any rules promulgated pursuant thereto, or any other supplemental relevant State or local law, rules or regulations; or
  - b. The licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the Norwood Local Licensing Authority; or
  - c. The licensee or applicant has a bad character and record; or

- d. The licensee's licensed premises has been operated in a manner that adversely affects the public health, safety or welfare of the neighborhood in which the establishment is located.
11. *Good moral character* means having a personal history that demonstrates honesty, fairness, and respect for the rights of others and the law, pursuant to Colorado Marijuana Enforcement Division regulations.
  12. *License* means to grant a license pursuant to the Colorado Marijuana Code and this Code for a retail or medical marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, or marijuana testing facility.
  13. *Licensed premises* means the premises specified in an application for a license pursuant to this Code and the Colorado Marijuana Code that is owned by or in possession of the licensee and within which the licensee is authorized to distribute, sell, cultivate, or manufacture marijuana products, or test retail marijuana in accordance with the provisions of the Colorado Marijuana Code.
  14. *Licensee* shall mean the marijuana establishment named on the marijuana establishment license, and all individuals named in the initial marijuana establishment license application, or individuals later submitted to and approved by the Town, including without limitation, owners, business managers, financiers, and individuals owning any part of an entity that holds a financial or other ownership interest in the retail marijuana establishment.
  15. *Local Licensing Authority* shall mean the Norwood Local Licensing Authority which shall consist of the members of the Norwood Board of Trustees or its designee(s).
  16. *Marijuana* for the purposes of this Code shall have the same meaning as set forth in the Recreational Marijuana Amendment and Section 14 of Article XVIII of the Colorado Constitution.
  17. *Marijuana accessories* shall have the same meaning as such term is defined in the Recreational Marijuana Amendment.
  18. *Marijuana business* shall mean any marijuana business as defined by Article IV of the Norwood Municipal Code or marijuana business as defined in this Code.
  19. *Operating fees* means fees that may be charged by the Town for costs including but not limited to inspection, administration, and enforcement of regulations governing retail marijuana establishments authorized pursuant to subsection 16(5)(f) of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, the rules adopted pursuant thereto, and this Code.
  20. *Patient* shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.
  21. *Person* means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.
  22. *Premises* means a distinct definite location which may include a building, a part of a building, a room or any other definite contiguous area.
  23. *Place open to the general public* shall mean any property owned, leased or used by a public entity, any place of private property open to the public, common areas of buildings, public parks, vehicles, streets, sidewalks, trails, those portions of any public or private property upon which the public has an expressed or implied license to enter or remain, and any place visible from such places. Places open

to the general public shall not include any private residential property regardless of whether it can be seen from a place open to the public.

24. *Primary caregiver* shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

25. *Principal* means:

- a. In the case of any business entity, including any general or limited partnership, corporation, limited liability company or other entity, any person who has five percent (5%) or greater interest in the ownership of the entity and any person who has the day-to-day authority to or actually does manage the entity's financial affairs.
- b. In the case of a corporation, the persons described for any entity described in Subparagraph a. above and the president, vice president, secretary, chief executive officer, chief financial officer and any person who holds five percent (5%) or more of the capital stock of the corporation.
- c. In the case of a limited liability company, the persons described for any such entity in Subparagraph a. above and any member of the limited liability company.
- d. In the case of a sole proprietorship, the individual owner.

26. *School* means a public or private licensed preschool, or a public, private or charter elementary, middle, junior high or high school, vocational school, secondary school, community college, college or other institution of higher education.

27. *Serious traffic offense* means any driving offense carrying eight (8) points or greater under Section 42-2-127, C.R.S., or the substantial equivalent of such events in any other state.

28. *State Licensing Authority* means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of retail marijuana in Colorado, pursuant to Section 12-43.4-201, C.R.S. of the Colorado Retail Marijuana Code.

Unless defined in this Code or the context clearly indicates otherwise, any word or term used in this Code that is defined in Article XVIII, Section 14(1)(f) of the Colorado Constitution or in the Colorado Medical Marijuana Code shall have the same meaning that is ascribed to such word or term in the Colorado Constitution or in the Colorado Medical Marijuana Code.

### **III. License required for marijuana establishments.**

1. It shall be unlawful to operate any retail or medical marijuana store, a product manufacturing facility, or a testing facility within the Town of Norwood without first obtaining a Town license to operate pursuant to this Code and having a validly issued license in good standing from the State of Colorado, and having paid all applicable fees.
2. Any person violating this Section shall be punished by a fine of up to three hundred dollars (\$300.00), or by imprisonment in the San Miguel County jail for a period of up to ninety (90) days, or by both such fine and imprisonment. Each day that a violation continues shall be considered a separate and distinct offense.

3. Except as otherwise provided for in this Code, the Town shall have the power to grant or deny a license and to impose reasonable limitations and restrictions on any license so granted consistent with the provisions in this Code. Denials shall be for cause. Written notice of the denial shall be provided to the applicant, which notice shall include the grounds for denial.

The following nonexclusive reasons may constitute cause for denial of a business license:

- a. Previous revocation or suspension of a business license held by the applicant.
  - b. Nonconformance of the premises or building to be used for the business with the requirements of pertinent Town health or safety codes.
  - c. Nonconformance of the business with zoning regulations; however, issuance of a business license shall not mean, nor shall issuance of a business license be construed as, a determination that a proposed business, business activity or business premises satisfies all applicable zoning or other land use regulations.
  - d. The failure of a person or business engaged in or intending to engage in retail sales to possess a valid Colorado sales tax license.
  - e. The failure of a person or business engaged in or intending to engage in retail sales to obtain a license from the State of Colorado.
4. Pursuant to the provisions of Article 43.3 of Title 12, C.R.S., medical marijuana businesses shall be licensed by the Town in one (1) or more of the following categories:
    - a. *Medical marijuana center* as defined in Section 12-43.3-104(8), C.R.S. Such center shall meet all criteria and requirements of Section 12-43.3-402, C.R.S., as well as all other regulatory requirements applicable to medical marijuana centers set forth within this Code, and within Article 43.3 of Title 12, C.R.S.
    - b. *Medical marijuana-infused products manufacturer*, as defined in Section 12-43.3-104(8), C.R.S. Such business shall meet all criteria and requirements of Section 12-43.3-404, C.R.S., as well as all other regulatory requirements applicable to medical marijuana-infused products manufacturing set forth in this Code and within the laws of the State.
  5. The licensing requirements set forth in this Code shall actually be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any federal law, the laws of the State, or local laws, including, but not by way of limitation, a business license, retail sales tax license, retail food establishment license or any applicable zoning permits or building permits.
  6. No license for a retail or medical marijuana business shall actually be issued by the Town until a license for such use, at the location designated in the application, has been issued by the State Licensing Authority.
  7. The issuance of a license pursuant to this Code does not create a defense, exception or provide immunity to any person in regard to any potential federal criminal liability the person may have for the production, distribution or possession of marijuana.
  8. Every license issued under this Code confers only a limited and conditional privilege subject to the requirements, conditions and limitations of this Code and state law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited or completely extinguished at the discretion of the Board of Trustees or the electors

of the Town, without any compensation to a licensee. Every license approved or issued under this Code shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the local option described in Section 12-43.3-106, C.R.S., and any other future ordinances adopted by the electors of the Town or the Board of Trustees. Nothing contained in this Code grants to any licensee any vested right to continue operating under the provisions of this Code as they existed at the time the license was approved or issued, and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

9. A separate license shall be required for each location from which a retail and/or medical marijuana business is operated.
10. All retail and medical marijuana business licenses issued by the Town shall be valid for a period of one (1) year from the date such license is issued. Renewal applications shall be filed at least forty-five (45) days prior to the expiration date of the existing license.
11. Licensees shall report each transfer or change of ownership interest, change in business manager, or change in principals on forms provided by the Town Clerk. An application for a change of manager shall be submitted to the Town Clerk at least thirty (30) days prior to any such change to provide necessary time for the background check and processing of the application pursuant to Section XIII below.

#### **IV. Composition of the Licensing Authority**

The Board of Trustees is hereby designated as the Norwood Local Licensing Authority. The Board of Trustees, may by resolution, delegate its authority or part of its authority set forth in this Code to an individual or group of individuals to act as the Local Licensing Authority.

#### **V. Functions and powers of Local Licensing Authority**

1. The Local Licensing Authority shall have the duty and authority pursuant to the Colorado Marijuana Code and this Code to grant or deny an application described in this Code and to levy penalties against a licensee in the manner provided by law.
2. The Local Licensing Authority shall consider applications for new business premises, transfer of ownership, change of location, licensed premises modification, changes in tradename and any other appropriate application.
3. The Local Licensing Authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the Local Licensing Authority.
4. The Local Licensing Authority shall have the power to require any applicant or licensee to furnish such information to the Authority as may be reasonably necessary in order for the Authority to perform the duties and functions authorized by this Code.
5. The Local Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a district court of the State. The Municipal Judge shall have the power and authority to enforce such subpoena.

#### **VI. Limitation on the number of licenses that may be issued by the Town**

A maximum of one (1) retail marijuana store license, and one (1) medical marijuana store license shall be issued. Any medical marijuana store license must be co-located within a retail marijuana store. one (1) manufacturing facilities licenses may be issued, whether for retail or medical manufacturing. One (1) marijuana testing facility license may be issued. An application for renewal of an existing retail or medical marijuana store, manufacturing facility, or testing facility license shall receive a preference over an application for a new license if the existing business has substantially met all of the requirements of this Code and the Colorado State requirements during the previous license term and is in good standing. If a new retail or medical marijuana store, manufacturing facility or testing facility license becomes available for issuance after the issuance of the initial licenses described herein, the Town Clerk shall publish a notice stating when the Town will accept applications for such licenses. Any applications received before or after the period described in such notice will be considered null, void and of no effect. Notwithstanding any contrary term or provision herein, there shall exist a maximum of two (2) properties within the Town whereon any combination of a medical marijuana store, a retail marijuana store and/or a manufacturing facility may be located, and the marijuana testing facility, if any, shall be located in only one location within the Town and such location shall be separate from any medical marijuana store, retail marijuana store and/or manufacturing facility.

## **VII. Issuance of Initial Licenses**

1. On or before January 4, 2021, the Town Clerk shall publish a notice that the Town of Norwood is accepting applications for retail and medical marijuana establishment licenses. Said notice shall establish a deadline for the Town's acceptance of such applications. The Town Clerk shall initially review such applications for completeness. In the event the Town Clerk finds that an application is incomplete, the Town Clerk may notify the applicant in writing of the application deficiencies and allow the applicant to correct such deficiencies within fifteen (15) days from the date of receiving such notice.
2. Licenses for marijuana stores are limited. In the event more applications are received than the maximum number allowed by Town Code and such applications have been deemed complete and in compliance with all requirements, the Local Licensing Authority shall establish a date and time for selecting, by lottery, the priority of sufficient license applications.
  - a. The Local Licensing Authority shall first proceed to approve one (1) retail store, one (1) medical marijuana store, and one (1) manufacturing license. The Local Licensing Authority shall give preference to any applicant that submits an application for all three available marijuana establishment licenses including Retail, Medical, and Manufacturing. In the event more than one applicant applies for all four license types, a lottery will occur to select which applicant can move forward. Any applicant not selected in the lottery can resubmit their application for the second licensing described in VII.2.b.
  - b. The Local Licensing Authority shall then proceed to approve one (1) retail store, one (1) medical marijuana store, and one (1) manufacturing, to the highest priority applicant. If more than one application is received for any license, a lottery will be held to determine which applicant may proceed.
  - c. The Local Licensing Authority shall also approve one (1) retail and medical marijuana testing facility license for applicants that have paid the applicable license and operational fees and that comply with the requirements of this Code. No one with an approved retail store, medical store, or manufacturing license will be approved for a testing license. The testing license must be held by an applicant that is separate from all other applicants.

3. All marijuana store licensees will be required to buy locally grown marijuana from a locally licensed marijuana cultivation facility, to the maximum extent local product is available.
4. Initial Review. In addition to other requirements contained in this code the initial criteria considered for review by the Local Licensing Authority for an application for a retail or medical marijuana store, or manufacturing license must be satisfied in full before the applicant will be assigned a priority number. The initial review standards are as follows:
  - a. The applicant has fully completed and submitted to the State a State Licensing Authority application including all subparts thereof, which shall be submitted as part of its application to the Local Licensing Authority. No material changes to the application to the State Licensing Authority shall be made after such submission to the Local Licensing Authority. "Material change" includes change of location, change of type of license, change in business ownership/membership interest allocation, change in business structure or financing structure/arrangements, change in detailed floor plans, or changes to applicant's security plan;
  - b. The applicant, including all partners or owners, has no felony convictions for ten (10) years, no drug related misdemeanor convictions for five (5) years, and no drug related felony convictions;
  - c. The business must certify that it has satisfied or will meet the security plan requirements of this Code prior to opening.
  - d. The proposed location of the business is located within the marijuana overlay district, and applicable land use/building permit applications have been submitted to the Town/County. Approval of any license will be conditioned upon the applicant's successful completion of any land use requirements and building code requirements as evidenced by issuance of Certificate of Occupancy.
  - e. Limitation on Number of Licenses per Person. No person or business entity or any person associated with a business entity may hold an ownership interest in more than one retail or co-located medical marijuana store located in the Town. A separate license shall be required for each location from which a retail marijuana establishment is operated. A separate license shall be required for each specific business or business entity, for each geographical location and for each co-located marijuana store.
  - f. The submission of an application for the issuance of a license under this Code from the Town shall act as acknowledgement and agreement by the applicant or the licensee that the sale of marijuana continues to be subject to the control and jurisdiction of the federal government and actions taken by the federal government under the federal laws and regulations may limit or invalidate any license issued by the Town or the licensee's ability to own or operate a retail marijuana establishment in the Town.
  - g. After submission of a license application to the Local Licensing Authority, no material revisions, changes, corrections or amendments to such application will be accepted by the Local Licensing Authority. "Material" includes, but shall not be limited to, change of type of license, change in business structure, change of persons participating in a business entity, or financing structure/arrangements, change in detailed floor plans, and a change to the security plan.

#### **VIII. Distance requirements from schools**

1. Any Retail marijuana store, medical marijuana store, manufacturing facility or testing facility shall be located a minimum of five hundred (500) feet from any school, as computed by direct measurement in a straight line from the nearest property line of the land used for the school to the nearest portion of the building in which the retail or medical marijuana store is located. Prior to issuing a marijuana establishment license, the Local Licensing Authority shall confirm that the proposed licensed premises meets such requirements according to the Town Zoning Map located in the Town's Zoning Code. Notwithstanding any contrary term or provision herein, an applicant for a testing facility only may request a variance reducing the minimum distance of 500 feet if it can prove to the discretion of the Licensing Authority that it may be located closer to any such school without causing disturbance or disruption to the school from odors, noise, safety concerns or other matters as determined by the Licensing Authority.
2. Once the marijuana establishment license is issued, the Town will not preclude a school from locating within the above described buffer zone. A marijuana establishment may then continue to operate at its present location. If a school use later locates within the applicable buffer zone, however, the licensee does so at its own risk, and the issued license provides no protection or indemnification against enforcement of federal or other applicable laws prohibiting the operation of a marijuana establishment near a school.

#### **IX. Application Process**

1. **Start Date.** The Local Licensing Authority will not accept any applications prior to the issuance of a public notice announcing that the Town is accepting applications. Such notice will occur on or before January 4, 2021. The Town will not issue any licenses prior to January 4, 2021.
2. **Application Materials.** An application for a retail marijuana establishment license shall be made on forms provided by the Town Clerk for such purposes. Only one (1) original application will be accepted. Copies will not be accepted. The Town Clerk is authorized to promulgate requirements concerning organization of the application such as binding requirements, font size, etc. The applicant shall use the application to demonstrate its compliance with the provisions of this code and other applicable laws, rules or regulations. In addition to general information required of standard applications, the application shall require the following information:
  - a. **Name and address of the owner or owners of the proposed retail marijuana establishment and in whose name the license is proposed to be issued.**
    - i. If the proposed owner is a corporation, then the application shall include the name and address of all officers and directors of the corporation, and of any person holding any financial interest in the corporation, whether as a result of the issuance of stock, instruments of indebtedness, or otherwise, including disclosure information pertaining to bank, savings and loan associations or other commercial lender which has loaned funds to the applicant.
    - ii. If the proposed owner is a partnership, association or limited liability company, the application shall include the name and address of all partners, members, managers and persons holding any financial interest in the partnership, association or limited liability company, including those holding an interest as the result of instruments of indebtedness or otherwise including disclosure of information pertaining to a bank, savings and loan association, or other commercial lender which has loaned funds to the applicant. It is not permissible to refer to such individuals using generic descriptions such as "family and friends."

- b. Name and address of the proposed business manager(s) of the retail marijuana establishment, if the business manager is proposed to be someone other than the owner, or if the owner is an entity rather than a natural person.
- c. A statement indicating whether any of the named owners, members, business managers, parties with a financial interest, or persons named on the application have been:
  - i. Denied an application for a medical marijuana business license or a retail marijuana establishment license pursuant to any State or local licensing law, rule or regulation, or had such license suspended or revoked.
  - ii. Denied an application for a liquor license pursuant to Article 46 or 47 of Title 12, C.R.S., or by any similar State or local licensing law, rule, regulation or had such license suspended or revoked.
  - iii. Convicted, entered a plea nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to possession, use, or possession with intent to distribute narcotics, drugs or controlled substances.
  - iv. Convicted, entered a plea of nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to driving or operating a motor vehicle while under the influence or while impaired by alcohol or controlled substances.
  - v. Convicted, entered a plea of nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any felony.
  - vi. Convicted, entered a plea of nolo contendere, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to a serious traffic offense which means any driving offense carrying eight (8) points or greater under Section 42-2-127, C.R.S. or the substantial equivalent of such events in any other State.
- d. Proof that the applicant will have ownership or legal possession and control of the premises proposed for the retail marijuana establishment for the term of the proposed license. Purchase contracts for real estate may not include a contingency for licensure. "Backup contracts" will not be accepted as evidence the applicant has control of the property. Similarly, leases may not include a contingency for licensure.
- e. Proof of insurance as follows:
  - i. Workers compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of work related to the operation of the retail marijuana establishment; and
  - ii. Comprehensive general liability insurance with minimum single limits of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate, applicable to all premises and operations.
- f. An operating plan for the proposed retail marijuana establishment including the following information:
  - i. A description of the products and services to be sold or provided by the retail marijuana establishment, including medical marijuana.
  - ii. A dimensioned floor plan of the proposed premises clearly labeled, showing:

1. The layout of the structure and the floorplan in which the retail marijuana establishment will be located including information sufficient to prove compliance with ventilation, security and other structural requirements as determined appropriate by the Town's/County's Building Official;
  2. The principle uses of the floor area depicted on the floorplan including but not limited to storage areas, retail sales areas and restricted areas where marijuana will be stored and located; and
  3. Areas where any services other than the cultivation, distribution or sale of retail marijuana is proposed to occur on the licensed premises.
- g. For a marijuana testing facility or marijuana products manufacturing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or the testing of any marijuana, and verification of compliance with all applicable State and local laws for ventilation and safety measures for each process.
- h. The maximum amount of marijuana or marijuana products that may be on the business premises at any one time expressed in grams of marijuana and units of marijuana- infused products.
- i. A security plan indicating how the applicant will comply with the requirements of this Code including Section XX.8 and any other applicable law, rule or regulation. The applicant may submit the portions of such security plan which include trade secrets or specialized security arrangements confidentially. The Town will not disclose the documents appropriately submitted under the Colorado Open Records Act, Sections 24-72-201 et seq., C.R.S. if they constitute confidential trade secrets or specialized security arrangements to any party other than law enforcement agencies, unless compelled to do so by court order. 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.
- j. A business plan demonstrating applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The plan shall indicate necessary capital improvements and the estimated cost thereof, an estimate of first year revenues and operating expenses, and evidence that the applicant will have the resources necessary to pay for such expenses.
- k. A lighting plan showing the illumination of the outside area of the retail marijuana establishment for security purposes. All exterior lighting shall be required to be fully hooded and comply with Section 5.08 of the Norwood Land Use Code, Exterior Lighting Standards.
- l. A signage plan showing how the company intends to advertise on the exterior of the building and premises which must comply with Section 5.06 of the Norwood Land Use Code, Sign Standards.
- m. A disposal plan demonstrating how product waste will be handled and properly disposed of.
- n. A vicinity map drawn to scale, indicating within a radius of one-quarter (1/4) mile from the boundaries of the property upon which the marijuana establishment is to be located, the proximity of the property to any school.

- o. Fingerprints and personal histories for all owners and parties having a financial interest in the proposed marijuana establishment as defined in this Code. All such individuals shall be subject to a criminal background check in conjunction with the license application and review conducted by the Colorado Bureau of Investigation pursuant to Section 12-43.4-306(2), C.R.S.
- p. A plan for disposal of any marijuana or product that is not sold or is contaminated in a manner that protects any portion thereof from being possessed or ingested by a person or animal.
- q. A plan for ventilation that describes the ventilating systems that will be used to prevent any odor of marijuana from extending beyond the premises of the business. A best available filtration system shall be required and carbon filtration is strongly encouraged by the Town.
- r. A description of all toxic, flammable or other materials regulated by federal or State government that would have authority over the business if it was not a retail marijuana establishment, that will be used, kept or created at the retail marijuana establishment and the location where such materials will be stored.
- s. An application for a retail marijuana establishment license shall be accompanied by the application fee, operational fee, criminal background fee, if any, together with any other applicable fees that may be established by resolution of the Board of Trustees.
- t. An application for a retail marijuana establishment license shall be accompanied by a completed State Licensing Authority application, including all subparts thereof, without attachments.

#### **X. Inspection Required**

An inspection of the proposed retail marijuana establishment by the Norwood Marshal's Department and Norwood Fire Department or other designated law enforcement/security company as assigned by the Licensing Authority, as well as the Local Building Inspector shall be required prior to actual issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any retail marijuana or marijuana products, and prior to the opening of the business to the public. The purpose of the inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted, the applicable requirements of this Code, and any other applicable law, rule or regulation such as building codes.

#### **XI. Issuance of License**

The Norwood Local Licensing Authority shall not issue a retail marijuana establishment license until the inspection, background checks, and all other information available to the Town have been found to verify that the applicant:

1. Has submitted a full and complete application;
2. Has made improvements to the business premises consistent with the application;
3. Is prepared to operate the business with the owners and business managers as set forth in the application, all in compliance with the provisions of this Code and any other applicable law, rule or regulation;
4. Has paid all required fees; and
5. Is otherwise in compliance with all other provisions of this Code and any other applicable provisions of the Norwood Municipal Code and the Colorado Marijuana Code, and the regulations promulgated thereunder.

#### **XII. Release of Information**

Any signature on an application for the issuance, transfer or modification of a license for a retail marijuana establishment or for a change in business manager or other amendment to the license shall constitute a release for purposes of allowing the Town to conduct investigations regarding the personal histories of all interested parties and shall constitute a consent to the release of any information obtained by the Town through such process as a public record under the Colorado Open Records Act, including, but not limited to, criminal history reports conducted by the Town or any other authorized agency and all financial disclosures obtained by the Town or any other entity.

**XIII. License Fees and Charges**

Applicants for marijuana establishment licenses or existing licensees shall pay the following fees. The fees apply to each type of license issued. A business with multiple license types (retail store, medical store, cultivation, manufacturing) in the Town must pay separate fees for each type of license and each location. The appropriate fees must be paid in conjunction with any application or request before the Town will process or act upon forms submitted. Except as indicated, all fees are non-refundable in the entirety. No fees previously paid by a licensee in connection with a license shall be refunded if the license is subsequently suspended or revoked.

<b>Application &amp; License Fees</b>	
New License for Retail Store	\$2,500 (non-refundable except that 50% may be refunded to eligible applications not selected in a lottery)
New License for Medical Store	\$2,500 (non-refundable except that 50% may be refunded to eligible applications not selected in a lottery)
New License for Manufacturing Facility	\$2,500 (non-refundable except that 50% may be refunded to eligible applications not selected in a lottery)
New License for Testing Facility	\$2,500 (non-refundable)
Annual Operating Fee: For each type of license held. Collected after approval of license.	Reimburse Municipality for cost incurred (Attorney Fees, staff time at \$30 per hour).
Annual renewal of existing marijuana establishment license:  For each type of license held.	\$1,500 (non-refundable)
Sales Tax License	\$50 (renewed annually)
Excise tax License	\$50 (renewed annually)

**XIV. Persons prohibited as licensees and business managers**

The criteria for determination of those persons who are not eligible to receive a marijuana establishment license or to act as a business manager of such an establishment shall be as provided in this Code and in Section 12-43.4-306, C.R.S.

1. No license approval provided by this Code shall be issued to or held by:
  - a. Any person whose criminal history indicates the person is not of good moral character;
  - b. Any corporation, any of whose officers', directors' or stockholders' criminal histories and record indicate such person is not of good moral character;
  - c. Any partnership, association, or company, any of whose officers', or any of whose members', criminal histories and record indicate such person is not of good moral character;
  - d. Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history and record indicate such person is not of good moral character;
  - e. Any cooperative association, any of whose officers', directors', or stockholders' or members' criminal histories and record indicate that such person is not of good moral character;
  - f. A person under twenty-one (21) years of age;
  - g. A person approved pursuant to this Code who, during a period of licensure or renewal approval, or who, at the time of application, has failed to:
    - i. File any tax return with a taxing agency related to the operation of a retail marijuana establishment or medical marijuana business;
    - ii. Pay any taxes, interest, or penalties due to a taxing agency relating to the operation of a retail marijuana establishment or medical marijuana business.
  - h. A person who:
    - i. Has discharged a sentence for a conviction of a felony in the five (5) years immediately preceding his or her application date; or
    - ii. Has discharged a sentence for a conviction of a felony pursuant to any State or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten (10) years immediately preceding his or her application date or five (5) years from May 28, 2013, whichever is longer; except that the Local Licensing Authority may grant a license to a person if the person has a State felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for a license;
  - i. A person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals that the person is ineligible;
  - j. A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or the Local Licensing Authority;

- k. A person applying for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or a publicly traded company
2. In investigating the qualifications of an applicant or a licensee, the Local Licensing Authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Local Licensing Authority considers the applicant's criminal history record, the Local Licensing Authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a retail marijuana establishment license. As used in this Section, "criminal justice agency" means any federal, State or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.
3. The focus of the inquiry into the character of any person associated with the operation of a marijuana establishment shall be whether the person's character is such that violations of State law or municipal ordinances pertaining to the possession and distribution of marijuana and/or the operation of marijuana establishments would be likely to result if a license were granted.
4. A direct beneficial interest owner who is a natural person must either:
  - a. Have been a resident of Colorado for at least one (1) year prior to the date of the application; or
  - b. Be a United States citizen prior to the date of the application. A marijuana business may be comprised of an unlimited number of direct beneficial interest owners that have been residents of Colorado for at least one (1) year prior to the date of application. A marijuana business that is comprised of one (1) or more direct beneficial interest owners who have not been Colorado residents for at least one (1) year prior to submittal of the application shall have at least one (1) officer who has been a Colorado resident for at least one (1) year prior to submittal of the application and all officers with day to day operational control over the business must become Colorado residents for at least one (1) year prior to the submittal of the application. A marijuana business is limited to no more than fifteen (15) direct beneficial interest owners, including all parent and subsidiary entities, all of whom are natural persons. A direct beneficial interest owner that is a closely held business entity must consist entirely of natural persons who are United States citizens prior to the date of the application, including all parent and subsidiary entities.
  - c. A marijuana business may include qualified institutional investors that own thirty percent (30%) or less of the marijuana establishment.
5. The State Licensing Authority shall perform a limited initial background check on qualified limited passive investors. If the initial background check provides reasonable cause for additional investigation, the State Licensing Authority may require a full background check. The State Licensing Authority shall review the marijuana establishment's operating documents to ensure compliance with this Section.
6. For the purposes of this subsection, unless the context otherwise requires, "institutional investor" means:
  - a. An employee benefit plan or pension fund that is subject to the federal "Employee Retirement Income Security Act of 1974", as amended, excluding employee benefit plan or pension

funds sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns five percent (5%) or more of a licensee;

- b. A State or federal government pension plan;
- c. A group comprised entirely of persons specified above; or
- d. Any other entity identified through rule by the State Licensing Authority.

#### **XV. Issuance or denial of approval**

1. In determining whether to issue an approval of an application for possible granting of a license in, the Local Licensing Authority may consider the following:
  - a. Whether the application is complete and signed by the applicant;
  - b. Whether the applicant has paid the application fee, license fee and the annual operating fee;
  - c. Whether the application complies with all of the requirements of this Code, the Colorado Marijuana Code, and rules promulgated by the State Licensing Authority;
  - d. Whether the application contains any material misrepresentations;
  - e. Whether the proposed marijuana establishment, marijuana cultivation facility or marijuana products manufacturing facility complies with the Town's Land Use and Development Code. The Local Licensing Authority shall make specific findings of fact with respect to whether the building in which the proposed retail marijuana store will be located conforms to the distance requirements set forth in Section XXX; and
  - f. 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 the conduct of the type of business proposed.
2. The Local Licensing Authority may impose reasonable conditions upon any license approval or renewal issued pursuant to this Code.
3. The Local Licensing Authority shall issue its decision approving or denying the application within forty-five (45) days following completion of the application investigation by Town staff and completion of a determination of the priority for license applicants for retail and medical marijuana stores, cultivation facilities, and manufacturing facilities described in this code. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.
4. An applicant must submit to the State the Local Licensing Authority's decision to approve the application to the State Licensing Authority within thirty (30) days following notification that the Local Licensing Authority has approved its application. Such applicant shall also set an appointment with the State Licensing Authority regarding such application. Failure to do so shall render the Local Licensing Authority's approval null and void and of no effect.
5. The Town Clerk shall not actually issue a license to an approved applicant until the applicant has been issued a license by the State Licensing Authority.

## **XVI. Contents and Display of Approval/License**

The approved licensee shall post the certificate of approval by the Local Licensing Authority in a conspicuous location on the premises. A marijuana establishment approval shall contain the following information:

1. Type of approval;
2. The name of the licensee;
3. The date of issuance of the approval;
4. The street address at which the licensee is authorized to operate the retail marijuana establishment;
5. Any conditions of approval imposed upon the license by the Local Licensing Authority;
6. The date of expiration of the approval; and
7. The signature of the Town Clerk.

## **XVII. Transfer/changes in ownership structure**

1. License approvals held by natural persons may not be transferred. In the event a natural person or persons holding a license sell the associated retail marijuana establishment, the purchaser shall be entitled to apply for a new retail marijuana establishment license for the purchased business. The purchaser shall be required to pay a new license application fee. If the proposed sale or conveyance of a partial interest in a marijuana establishment to a person who previously did not own ten percent (10%) or more of the marijuana establishment will, after the sale, result in the person owning ten percent (10%) or more of the marijuana establishment, the licensee shall apply for a change in ownership structure, which the Local Licensing Authority shall process as a new license approval application by the new owner. A State license for a marijuana establishment is not transferrable except as provided in Section 12-43.4-308, C.R.S., as contained in the Colorado Marijuana Code.
2. License approvals held by partnerships, corporations, limited liability companies, or other business entities are not transferrable and terminate automatically upon dissolution of the entity. If the proposed sale or conveyance of any interest in the entity to a person who previously did not own ten percent (10%) or more of the business will, after the sale, result in the person owning ten percent (10%) or more of the entity, the licensee shall apply for a change in ownership structure, which the Local Licensing Authority shall process as a new license approval application by the new owner.
3. Changes in ownership structure that do not result in a person increasing that persons interest from less than ten percent (10%) to more than ten percent (10%) shall be reported to the Local Licensing Authority and may be approved administratively by the Town Clerk.

## **XVIII. Change in Location**

1. A licensee may move its permanent location to another location in the Town, but it shall be unlawful to manufacture, distribute, or sell marijuana at any such place until permission to do so is granted by the Local Licensing Authority and the State Licensing Authority.
2. In permitting a change of location, the Local Licensing Authority shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply

with all requirements of this Code, the Town's Land Use and Development Code, the Colorado Marijuana Code, and rules promulgated by the State Licensing Authority.

3. The Local Licensing Authority shall not authorize a change of location until the applicant produces a license issued and granted by the State Licensing Authority covering the period for which the change of location is sought.

#### **XIX. Suspension or revocation of License**

A license approval pursuant to this Code may be suspended or revoked by the Local Licensing Authority or a hearing officer appointed by the Local Licensing Authority after a hearing for the following reasons:

1. Fraud, misrepresentation, or a false statement of material fact contained in the license application;
2. Any violation of the Norwood Municipal Code or State law pertaining to the operation of a retail marijuana establishment including regulations adopted by the State Licensing Authority, for the possession or distribution of marijuana or manufacturing of retail marijuana products;
3. A violation of any of the terms and conditions of its license;
4. A violation of any of the provisions of this Code.
5. In deciding whether a retail marijuana establishment license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the Local Licensing Authority shall consider:
  - a. The nature and severity of the violation;
  - b. Corrective action, if any, taken by the licensee;
  - c. Prior violation(s), if any, by the licensee;
  - d. The likelihood of a reoccurrence of the violation;
  - e. The circumstances of the violation;
  - f. Whether the violation was willful; and
  - g. Previous sanctions if any imposed on the licensee.
6. The Colorado Marijuana Code shall govern proceedings for the suspension or revocation of a license granted pursuant to this Code. The Local Licensing Authority may not impose a fine in lieu of a suspension as authorized under the provisions of the Colorado Marijuana Code.

#### **XX. Operational Requirements—General**

1. A retail marijuana establishment shall be operated and maintained strictly in accordance with the license application.
2. All marijuana establishments shall collect and remit all applicable State, County and Town sales taxes, occupation taxes, excise taxes or other lawfully imposed tax in a timely manner.
3. No person under twenty-one (21) years of age shall be allowed within the business premises of a retail marijuana establishment. No person shall be allowed entry into the business premises without showing a valid picture identification in accordance with the requirements of the Colorado Retail Marijuana Code.
4. Any and all possession, storage, display or sales or other distribution of marijuana and testing of marijuana shall occur only within the restricted area of a retail marijuana establishment or retail marijuana testing facility and shall not be visible from the exterior of the business. No products shall be visible from outside of the building. Windows shall be properly covered to prevent visual access to the interior of the facility.

5. Each licensee shall manage the licensed premises himself or herself or employ a separate business manager on the premises. The licensee shall report any change in business manager to the Town within seven (7) days after the change.
6. The retail marijuana establishment shall not maintain any quantity of marijuana within the licensed premises in excess of the amount stated on the license application to the Town.
7. It shall be unlawful for any retail marijuana establishment to employ any person who is not at least twenty-one (21) years of age. All business managers and employees of any licensee shall possess a valid occupational license and identification badge issued by the State of Colorado.
8. Marijuana establishments shall provide adequate security on the business premises, which shall include the following:
  - a. Twenty-four (24) hour security surveillance color cameras to facilitate the investigation of crimes, with a redundant power supply and circuitry to monitor entrances/exits and the parking lot, if applicable, with the interior and exterior of the premises. Security video and audio shall be preserved for a minimum of forty (40) days in a secure off-site location in the Town or through a service over a network that provides on-demand access, commonly referred to as the "cloud". The owner shall provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the establishment or its customers. The owner shall be required to produce surveillance footage disclosing the identity of customers and shall not edit surveillance footage to protect customer privacy. The resolution of these color cameras shall be of sufficient quality to allow for the identification of the subjects' facial features, in all lighting conditions, in the event of a crime;
  - b. A burglar/fire alarm system that is professionally monitored and maintained in good working order; a locking safe permanently affixed to the premises suitable for storage of inventory and cash, all to be stored during non-business hours;
  - c. Exterior lighting that illuminates the exterior walls of the establishment shall comply with any requirements of the Town of Norwood Land Use Code, Section 5.08 and the lighting plan discussed herein;
  - d. No firearms, knives, or other weapons shall be permitted in a retail marijuana store except those carried by sworn peace officers, those carried by persons having concealed weapons permits, and those carried by security personnel employed by the retail marijuana store or its contractor.
  - e. The Norwood Marshal's Department or other appropriate Town employee/agent shall report to the Town Clerk all violations of this Code and other applicable State and local laws and the Town Clerk shall maintain a record of each license issued and record the reports of the violations in such records
9. For retail and medical marijuana stores, manufacturing, and testing facilities the odor of marijuana must not be perceptible at the exterior of the building, the exterior of the licensed premises, or at any adjoining use of the property. All marijuana facilities must use the best available ventilation and filtration systems such as carbon air filter scrubbers or charcoal filtration systems. A marijuana product manufacturing facility shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as a part of production.
10. A retail marijuana store may not sell more than one (1) ounce of retail marijuana or its equivalent in retail marijuana products, including retail marijuana concentrate, except for non-edible, non-

psychoactive retail marijuana products, including ointments, lotions, balms, and other non-transdermal topical products during a single transaction to a person.

11. Prior to initiating a sale, the employee of a marijuana store making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one (21) years of age or older. If a person under twenty-one (21) years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this Code. If a marijuana store licensee or employee has reasonable cause to believe that a person is under twenty-one (21) years of age and is exhibiting fraudulent proof of age in an attempt to obtain any marijuana or marijuana infused products, the licensee or employees are authorized to confiscate such fraudulent proof of age, if possible, and shall, within seventy-two (72) hours after the confiscation, remit the same to a State or local law enforcement agency. The failure to confiscate such fraudulent proof of age or to remit the same to a State or local law enforcement agency within seventy-two (72) hours after the confiscation does not constitute a criminal offense. If a marijuana store licensee or employee believes that a person is under twenty-one (21) years of age and is exhibiting fraudulent proof of age in an attempt to obtain any marijuana or retail marijuana infused products, the licensee or employee, or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether a person is guilty of any unlawful act regarding the purchase of retail marijuana. The questioning of a person by the licensee or an employee does not render the licensee or the employee civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.
12. Any sale of marijuana by a marijuana store shall be made in person, directly to the purchaser, within the restricted area of the marijuana store. No sale shall be made by a telephone, internet or other means of remote purchase. Delivery shall occur only in person to the purchaser at the time of purchase within the restricted area of the marijuana store.
13. Drive in or drive through marijuana store facilities shall not be permitted.
14. All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana, specifies the amount of marijuana in the product, and that the marijuana is intended for use solely by a person lawfully possessing marijuana. The label shall be in compliance with all applicable requirements of the State of Colorado.
15. Marijuana stores shall provide customers with the contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.
16. Marijuana shall not be consumed or used on the premises of a marijuana store and it shall be unlawful for a marijuana store licensee to allow marijuana to be consumed upon its licensed premises. In the case of a marijuana store located in a structure with a legal secondary unit or other legal dwelling unit, the secondary unit or dwelling unit shall not be considered part of the marijuana store premises if access to such unit is prohibited to the marijuana store customers.
17. Marijuana stores may only be open to the public between the hours of 10:00 a.m. and 9:00 p.m. daily, and no sale or other distribution of marijuana may occur upon the premises outside of those hours. A licensed cultivation facility or its contracted agent may deliver marijuana and marijuana products to retail marijuana stores on any day of the week and at any time except between the hours of 9:00 p.m. and 4:00 a.m.
18. Marijuana product manufacturing facilities may conduct business operations on the licensed premises at any time. However, shipping and receiving of products and supplies shall only occur between the hours of 4:00 a.m. and 9:00 p.m. daily.

19. Retail and medical marijuana testing facilities may conduct business operations on the licensed premises at any time. However, shipping and receiving of materials, supplies and marijuana or marijuana products shall only occur between the hours of 4:00 a.m. and 9:00 p.m. daily.
20. All retail marijuana testing facilities shall operate in compliance with all applicable State laws and regulations adopted pursuant to such laws including, but not limited to, Section 12-43.4-105, C.R.S

## **XXI. Signage and Advertising**

1. All exterior signage associated with the marijuana establishment must meet the standards established in Town's Land Use Code, section 5.06 and Development Code. In addition, no exterior signage shall use the word "marijuana", "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana.
2. A retail marijuana establishment may not advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors.
3. Except as otherwise provided in this Section, it shall be unlawful for any person licensed under this Code or any other person to advertise any marijuana establishment or any marijuana infused product anywhere within the Town where the advertisement is in plain view of, or in, a place open to the general public, including advertising and using any of the following media: any billboard or other outdoor general advertising device; any sign mounted on a vehicle; any handheld or other portable sign; or any hand bill, leaflet or flyer directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition set forth in this Section shall not apply to:
  - a. Any sign located on the licensed premises of a marijuana establishment which exists solely for the purpose of identifying the location of the premises and which otherwise complies with this Code, the Town's Land Use and Development Code and any other applicable Town laws and regulations; or
  - b. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the Town or on the internet.
4. No marijuana establishments shall distribute or allow the distribution of any marijuana without charge within a marijuana establishment or at any other place in the Town for purposes of promotion, advertising, or any other similar purpose.

## **XXII. Right of Entry—Records to be maintained and inspection procedures**

1. Each licensee of a marijuana establishment shall keep and maintain a complete set of books of accounting, invoices, copies of orders and sales, shipping receipts, bills of lading, correspondence, and all other records necessary to fully document the business transactions of such licensee. The licensee shall also maintain records which verify that the amount of marijuana within the marijuana establishment does not exceed the amount allowed. All such records shall be open at all times during business hours for inspection and examination by the Town Manger, the Town's Marshal's Department, or their duly authorized representatives. The Town may require the licensee to furnish such information as it considers necessary for the proper administration of this Code. The records shall clearly show the source, amount, price and dates of all retail marijuana received or purchased, and the amount, price, and dates for all retail marijuana sold.
2. By accepting the retail marijuana establishment license, licensee consents to the disclosure of the information required by this Section.

3. The Town may require an audit of the books of account and records of the marijuana establishment as it may deem necessary. Such audit shall be made by an auditor selected by the Town, who shall 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 licensee.
4. The acceptance of a marijuana establishment license from the Town constitutes consent by the licensee, owners, business managers and employees of such business to permit the Town Clerk, Sheriff, or their representatives to conduct routine inspections of the licensed marijuana establishment to assure that the marijuana establishment and the premises are being operated and maintained in accordance with the terms set forth in the application and that all operations in the premises remain in compliance with this Code, the Colorado Marijuana Code, and any rules or regulations promulgated thereunder.
5. All marijuana establishments shall be required to obtain applicable State and Town licenses and shall collect and remit all applicable State, County and Town sales taxes, occupation taxes and excise taxes in a timely manner. The marijuana business license and sales tax license for the business shall be conspicuously posted in the business.

### **XXIII. Compliance with other applicable laws**

Except as may be otherwise provided in this Code, or rules or interpretations adopted by the Town, any law or regulation adopted by the State of Colorado governing the cultivation, production, possession, distribution or testing of marijuana for medical or recreational use shall also apply to marijuana establishments licensed within the Town. Provided, however, if a State law or regulation permits what this Code prohibits, this Code shall control.

### **XXIV. Violations; penalty**

1. Any person, other than a licensee of a marijuana establishment, who violates any provision of this Code shall be deemed guilty of a municipal offense and may be punished by a fine not to exceed three hundred dollars (\$300.00), imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.
2. Any licensee of a marijuana establishment who violates any provisions of this Code shall be subject to civil penalties of up to one thousand dollars (\$1,000.00) for each day during which such violation occurs or continues. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Following notice and hearing, the Local Licensing Authority may impose such civil penalties.

## **Collection of Municipal Excise Tax**

### **I. Purpose**

The Board of Trustees of the Town of Norwood, Colorado intends that a municipal excise tax be imposed on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer within the Town. The purpose of this tax is to increase the revenue base for the Town of Norwood. All revenues from the tax shall be deposited in the Town's general fund. The excise tax levied by this Code was approved by a majority vote of registered Norwood electors voting at the April 7, 2020 election.

### **II. Definitions**

The following words and phrases used in this Code shall have the following meanings unless the context clearly indicates otherwise:

*Average market rate* means the amount determined by the State of Colorado pursuant to Section 39-28.8-101(1), C.R.S. as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer. All other terms in this Code shall have the same meaning as set forth in section XXX of the Norwood Municipal Code Licensing and Regulation of Recreational and Medical Marijuana Businesses.

### **III. Imposition and Rate of tax**

There is hereby levied an excise tax of five percent (5%) upon the average market rate of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer.

### **IV. Vendor liable for tax**

Each retail marijuana cultivation facility shall collect the tax imposed by this Code upon every sale or transfer of unprocessed retail marijuana from the cultivation facility—this is the person or entity with the duty to collect the excise tax. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Code.

### **V. Taxes collected held in trust**

All sums of money paid by any person or facility to a cultivation facility as excise taxes pursuant to this Code are public monies that are the property of the Town of Norwood. The person required to collect and remit municipal retail marijuana excise taxes shall hold such monies in trust for the sole use and benefit of the Town of Norwood until paying them to the Town's Treasurer.

### **VI. Licensing and Reporting Requirements**

1. Every person with the duty to collect the excise tax imposed by this Code shall obtain an excise tax license from the Town Clerk and shall report such taxes collected on forms prescribed by the Town Clerk and remit such taxes to the Town on or before the tenth day of the month for the preceding month or months under the report. An excise tax license shall be valid so long as:
  - a. The business remains in continuous operation, and
  - b. The license is not cancelled by the licensee or revoked by the Town, and
  - c. The business holds a valid marijuana license pursuant to Article \_\_\_ of the Norwood Municipal Code.
2. The excise tax license may be cancelled or revoked by the Town as provided in this Code.
3. Whenever a business entity that is required to be licensed under this Code is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new excise tax license.
4. Every person engaged in a retail marijuana cultivation business in the Town of Norwood shall keep books and records according to the standards of the Town Clerk and this Code and subject to the Town Treasurer's right to audit as set forth in this Code.

## **VII. Collection of Tax**

1. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than one hundred dollars (\$100.00) to make returns and pay taxes at intervals not greater than three (3) months.
2. It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this Code. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk, Town Treasurer or their designees.

## **VIII. Audit of Records**

1. For the purpose of ascertaining the correct amount of the excise tax due and owing to the Town, the Town Treasurer or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.
2. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk, Town Treasurer or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination. Any such subpoena may be enforced by the Norwood Municipal Court.
3. Any person claiming an exemption under the provisions of this Code is subject to audit in the same manner as any other person engaged in the sale or transfer of unprocessed retail marijuana in the Town.

## **IX. Tax overpayments and deficiencies**

An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the excise tax upon the sale or transfer of unprocessed retail marijuana, the Clerk shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Code, the difference together with interest shall be paid by the retail marijuana cultivation facility within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

## **X. Tax Information Confidential**

1. All specific information gained under the provisions of this Code which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Code, no Town officer, employee, or legal representative shall

divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Code or by law, shall be guilty of a violation hereof.

2. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax or excises taxes any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.
3. Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

#### **XI. Forms and regulations**

1. The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said excise tax on the sale or transfer of unprocessed retail marijuana and in particular and without limiting the general language of this Code, to provide for:
  - a. A form of report on the sale or transfer of unprocessed retail marijuana to be supplied to all vendors;
  - b. The records which retail marijuana cultivation facilities are to keep concerning the tax imposed by this Code.

#### **XII. Enforcement and Penalties**

1. It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Code, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Code. Any person convicted of a violation of this Code shall be deemed guilty of a municipal offense, punishable by a fine of up to three hundred dollars (\$300.00) and ninety (90) days imprisonment or by both such fine and imprisonment. Each day, or portion thereof, that any violation of this Code continues shall constitute a separate offense.
2. A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the retail marijuana cultivation facility and become due in the event the tax is not remitted by the tenth day of the month as required by this Code, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.
3. If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the retail marijuana cultivation facility required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.

4. If any retail marijuana cultivation facility fails to make a return and pay the tax imposed by this Code, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the retail marijuana cultivation facility at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.
5. Such petition shall be in writing and the facts and figures submitted shall be submitted in writing and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Code. Such assessment shall be considered the final order of the Town Clerk and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.
6. An excise tax license may be suspended or revoked in accordance with Section XIX of this code.

### **XIII. Tax Lien**

1. The tax imposed by this Code, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by the Norwood Marshal's Department or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.
2. The tax imposed by this Code shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

### **XIV. Recovery of unpaid tax**

1. The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.
2. In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.
3. The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

4. Such actions may be actions in attachment, and writs of attachment may be issued to the San Miguel County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town police officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.
5. It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence an action for the recovery of taxes due under this Code and this remedy shall be in addition to all other existing remedies, or remedies provided in this Code.
6. The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the San Miguel County Treasurer for collection in the same manner as delinquent ad valorem taxes pursuant to Section 31-20-105, C.R.S.

#### **XV. Status of unpaid tax in bankruptcy and receivership**

Whenever the business or property of a taxpayer subject to this Code shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Code and for which the taxpayer is in any way liable under the terms of this Code shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Code under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Code, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

#### **XVI. Hearings, subpoenas, and witness fees**

1. Hearings before the Town Clerk pursuant to provisions in this Code shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this Code may be enforced by the Norwood Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Code, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.
2. The Norwood Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

#### **XVII. Depositions**

The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law

for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

### **XVIII. Statute of limitations**

1. Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Code shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three (3) year period when the notice of lien with respect to which has been filed prior to the expiration of such period.
2. In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.
3. Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

### **XIX. Exemption from revenue limits**

In accordance with the approval of the registered electors voting at the April 7, 2020 election, the revenues derived from the tax imposed by this Chapter shall be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.

## **Collection of Municipal Marijuana Sales Tax**

### **I. Purpose**

The Board of Trustees of the Town of Norwood, Colorado intends that an additional municipal sales tax be imposed on all retail marijuana sales by a retail marijuana store within the Town. This tax is levied in addition to the Town's base sales tax rate and remitted directly to the Town. The Town's base sales tax is still to be collected by the vendor and remitted to the State of Colorado. The purpose of this tax is to increase the revenue base for the Town of Norwood. All revenues from the tax shall be deposited in the Town's general fund, in the Town's sales tax line item. The sales tax levied by this Code was approved by a majority vote of registered Norwood electors voting at the April 7, 2020 election.

### **II. Imposition and Rate of tax**

There is hereby levied an additional sales tax of two percent (2%) upon the sale of retail marijuana at a licensed retail marijuana store. After the initial establishment of the sales tax, the Town may increase the rate, as appropriate, up to 10% without additional voter approval by amending the Town Code.

### **III. Vendor liable for tax**

Each retail marijuana store within the Town of Norwood shall collect the tax imposed by this Code upon every sale of retail marijuana from the store. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Code.

#### **IV. Taxes collected held in trust**

All sums of money paid by any person to a retail marijuana store as sales taxes pursuant to this Code are public monies that are the property of the Town of Norwood. The person required to collect and remit municipal retail marijuana sales taxes shall hold such monies in trust for the sole use and benefit of the Town of Norwood until paying them to the Town's Treasurer.

#### **V. Licensing and Reporting Requirements**

1. Every person with the duty to collect the sales tax imposed by this Code shall obtain a sales tax license from the Town Clerk and shall report such taxes collected on forms prescribed by the Town Clerk and remit such taxes to the Town on or before the tenth day of the month for the preceding month or months under the report. A sales tax license shall be valid so long as:
  - a. The business remains in continuous operation;
  - b. The license is not cancelled by the licensee or revoked by the Town; and
  - c. The business holds a valid retail marijuana license pursuant to Article XX of the Norwood Municipal Code.
2. The sales tax license may be cancelled or revoked by the Town as provided in this Code.
3. Whenever a business entity that is required to be licensed under this Code is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new sales tax license.
4. Every person engaged in a retail sale in the Town of Norwood shall keep books and records according to the standards of the Town Clerk and this Code and subject to the Town Treasurer's right to audit as set forth in this Code.

#### **VI. Collection of Tax**

1. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than one hundred dollars (\$100.00) to make returns and pay taxes at intervals not greater than three (3) months.
2. It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under this Code. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk, Town Treasurer or their designees.

#### **VII. Audit of Records**

1. For the purpose of ascertaining the correct amount of the sales tax due and owing to the Town, the Town Treasurer or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such licensee.
2. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk, Town Treasurer or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination. Any such subpoena may be enforced by the Norwood Municipal Court.
3. Any person claiming an exemption under the provisions of this Code is subject to audit in the same manner as any other person engaged in the sale or transfer of unprocessed retail marijuana in the Town.

### **VIII. Tax overpayments and deficiencies**

An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the sales tax upon the sale or transfer of unprocessed retail marijuana, she shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Code, the difference together with interest shall be paid by the retail marijuana cultivation facility within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause.

### **IX. Tax Information Confidential**

1. All specific information gained under the provisions of this Code which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Code, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Code or by law, shall be guilty of a violation hereof.
2. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax or excises taxes any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.
3. Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

### **X. Forms and regulations**

1. The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said sales tax on the sale of retail marijuana and in particular and without limiting the general language of this Code, to provide for:

- a. A form of report on the sale of retail marijuana to customers;
- b. The records which retail stores are to keep concerning the tax imposed by this Code.

#### **XI. Enforcement and Penalties**

1. It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Code, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Code. Any person convicted of a violation of this Code shall be deemed guilty of a municipal offense, punishable by a fine of up to three hundred dollars (\$300.00) and ninety (90) days imprisonment or by both such fine and imprisonment. Each day, or portion thereof, that any violation of this Code continues shall constitute a separate offense.
2. A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the retail marijuana cultivation facility and become due in the event the tax is not remitted by the tenth day of the month as required by this Code, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.
3. If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the retail marijuana cultivation facility required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.
4. If any retail marijuana store fails to make a return and pay the tax imposed by this Code, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the retail marijuana cultivation facility at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such taxes due and owing.
5. Such petition shall be in writing and the facts and figures submitted shall be submitted in writing, and shall be given by the taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Code. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.
6. An excise tax license may be suspended or revoked in accordance with Section XIX of this code.

#### **XII. Tax Lien**

1. The tax imposed by this Code, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all

other liens on all of the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any Town police officer, the San Miguel County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

2. The tax imposed by this Code shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

### **XIII. Recovery of unpaid tax**

1. The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.
2. In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's fees, charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.
3. The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.
4. Such actions may be actions in attachment, and writs of attachment may be issued to the Norwood Marshal Department, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town police officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.
5. It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence an action for the recovery of taxes due under this Code and this remedy shall be in addition to all other existing remedies, or remedies provided in this Code.
6. The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the San Miguel County Treasurer for collection in the same manner as delinquent ad valorem taxes pursuant to Section 31-20-105, C.R.S.

### **XIV. Status of unpaid tax in bankruptcy and receivership**

Whenever the business or property of a taxpayer subject to this Code shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Code and for which the taxpayer is in any way liable under the terms of this Code shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Code under process or order of any court,