



MEDICAL MARIJUANA BUSINESS LICENSE APPLICATION

OFFICE OF THE CITY CLERK
30 South Nevada Avenue, Suite 101
Colorado Springs, Colorado 80903

Phone: (719) 385-5106

Mailing Address:
P.O. Box 1575, Mail Code 110
Colorado Springs, Colorado 80901-1575

CITY OF COLORADO SPRINGS

NOTICE

MEDICAL MARIJUANA BUSINESS LICENSE INFORMATION AND GUIDELINES

THE FOLLOWING INFORMATION IS INTENDED TO PROVIDE GENERAL INFORMATION/GUIDELINES AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR AS A SUBSTITUTE FOR LEGAL COUNSEL.

Medical Marijuana Business licenses are issued by dual licensing authorities; obtaining a Medical Marijuana business license is a privilege, not a right. State and City Medical Marijuana Code and Rules and Regulations regulate Medical Marijuana business licenses, and it is the applicant's burden to understand and comply with those laws and regulations.

Business license applications must be submitted to the Colorado Springs City Clerk's Office and approved by the Local Authority before it is forwarded to the Colorado Department of Revenue, Medical Marijuana Enforcement Division for approval. The application/licensing process takes several months from the filing and acceptance of a completed application, and will include inspections of premise(s) to be licensed by State and City authorities. Failure to file applications in a complete and timely manner may result in a delay. No operations (growing, manufacturing, or selling) are permitted until both State and City licenses are issued.

All forms must be **typed or legibly printed in black or blue ink**. Applications must be accurate, complete in all aspects to include applicable documentation as required, and properly executed. **Incomplete applications will be rejected**. A checklist is provided in the packet for your assistance. Applications requiring additional documentation will have ten (10) calendar day period from date of notice for remedy, or the application may be deemed withdrawn.

APPLICATIONS AND REQUIRED ATTACHMENTS/DOCUMENTATION MUST BE SUBMITTED IN DUPLICATE (ORIGINAL AND ONE COPY) TO THE CITY CLERK'S OFFICE WITH THE APPROPRIATE CITY FEES, PAYABLE IN CERTIFIED FUNDS ONLY.

The City Clerk's Office will issue cards for required fingerprinting based on your completed Applicant Interview Form(s). Fingerprinting must be accomplished at the Colorado Springs Police Operations Center, located at 705 S. Nevada Avenue, Monday through Friday, 8:00 am to 5:00 pm, and the verified Applicant Interview Form(s) must be returned to the City Clerk's Office within ten (10) days of fingerprint card issuance.

An applicant may own a Medical Marijuana Center, Medical Marijuana Optional Premises Cultivation facility, or Medical Marijuana-Infused Products Manufacturing facility in another jurisdiction of Colorado and operate an associated Medical Marijuana business facility in Colorado Springs. The applicant must provide a license/registration from that jurisdiction that permits them to operate the associated Medical Marijuana business type.

If an existing license is being transferred to a new owner, the premises **MUST** remain as currently licensed or a separate application for Modification of the Premises must be filed by the new owner.

Applicants for a new Medical Marijuana business license, transfer of an existing license or change of location of an existing Medical Marijuana business license may be subject to additional fees and/or licenses required prior to operation which may include, but are not limited to City and State Sales Tax Licenses (must be submitted with application).

Medical Marijuana business license(s) will not be issued until a Certificate of Occupancy has been obtained for each location and has passed Colorado Springs Fire Department inspection(s), as applicable.

No license will be issued until all applicable fees have been paid by certified funds or money order, and all required licenses have been obtained. New or transfer application fee is valid for all license types submitted concurrently for a single entity/applicant. Subsequent applications for additional locations require an additional application fee.

In the event the City of Colorado Springs chooses to prohibit any or all classes of Medical Marijuana business licenses, pursuant to CRS 12-43.3-106, any license that has been issued will no longer be valid.

Applications for Associated/Key Person are to be filed directly to the Colorado Department of Revenue, Medical Marijuana Enforcement Division.

License Renewal Applications must be received no later than 45 prior to the annual expiration date.

Medical Marijuana Business License Application Checklist

- Certified funds or Money Order payable to the City of Colorado Springs for:
 - Non-refundable application fee (\$2,200)
 - License Fee(s) for applicable type(s) of business are payable on approval of license(s):

- Completed Applicant Interview/release form for **each** officer, owner, and manager (page 6)

- Fingerprint Cards for **each** officer, owner, and manager (issued from the City Clerk's Office – see instructions)

- Copy of MMED Associated/Key Person Application for **each** officer, owner, and manager

- Authorization to Release Financial Information for **each** officer, owner, and manager (page 7)

- Knowledge of Laws Affidavit for **each** officer, owner, and manager (page 8)

- Detailed diagram of **each** location (to scale, 8.5" x 11" – see Rule 2.1.02(A)(10))

- Copy of City and State Sales Tax Licenses (as applicable) for **each** location

- Copy of valid, executed possessory document (lease or deed) for **each** premise location, valid for at least one year and including landlord's authorization for Medical Marijuana Business use

- Copy of company/corporate documentation (Certificate of Good Standing, Articles of Incorporation or Organization, Operating Agreements or Bylaws, etc)

- Proof of source of funds documentation (startup funding and financial investment - promissory notes, purchase agreements, banks statements, gift notes, etc)

- Copy of license/registration in other Colorado jurisdiction (if applicable)

- Caregiver Affidavit (if applicable) for **each** officer, owner, and manager (page 9)

- CSPD After-Hours Emergency Contact Sheet (page 10)

- Copy of State Medical Marijuana Business License Application (or amended application) - complete with all required attachments, including all required company or corporate and financial documentation

NOTE: The City of Colorado Springs reserves the right to request additional information and documentation throughout the course of the application investigation.



City of Colorado Springs <u>Medical Marijuana Business Application and License Fees</u> (City Council Resolution 120-11 and 153-11)	
New Application Fee (plus annual license fees)	\$ 2,200
Medical Marijuana Center License Fee (Annual, each location)	\$ 1,800
Medical Marijuana Optional Premises Cultivation License Fee (Annual, each location)	\$ 1,800
Medical Marijuana Infused Product Manufacturer License Fee (Annual, each location)	\$ 1,800
Late Renewal Fee (C.R.S. § 12-43.3-311(2)(a))	\$ 500
Transfer of Ownership Application Fee (plus annual license fees)	\$ 2,200
Change of Location Application Fee	\$ 700
Modification of Premises Application (each location)	\$ 700
Change of Corporate Structure/Officers/Directors (for each owner/officer added)	\$ 500
Manager Registration (if not an owner)	\$ 500
Change of Trade Name	\$ 50
Duplicate Business License (each)	\$ 5



MEDICAL MARIJUANA BUSINESS LICENSE APPLICATION

NEW LICENSE APPLICATION

TRANSFER OF OWNERSHIP APPLICATION
(Attach Affidavit of Transfer of Ownership)

This application must be accompanied by an application fee of \$2,200, payable with certified funds or money order.

Type of Business (Check All That Apply)

- MEDICAL MARIJUANA CENTER**
(Business authorized to sell Medical Marijuana to registered patients or primary caregivers but is not a primary caregiver CRS 12-43.3-104(8))
- OPTIONAL PREMISES CULTIVATION**
(Business grows and cultivates medical marijuana at an additional Colorado premises contiguous or not contiguous with the premises of the person's medical marijuana center or medical marijuana-infused products manufacturing premises CRS 12-43.3-104(11))
- MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER**
(Business that manufactures medical marijuana-infused products, i.e. edible products, ointments, tinctures CRS 12-43.3-104(9) and (10))

THIS APPLICATION MUST BE SUBMITTED WITH A COPY OF THE CITY OF COLORADO SPRINGS SALES TAX LICENSE OR RECEIPT FOR EACH PREMISE / BUSINESS LOCATION, AS APPLICABLE.

1 - APPLICANT INFORMATION

Name of Applicant: (list Corporation/LLC/Partnership/Association/Sole Proprietor)	
Trade Name (DBA):	
APPLICANT ADDRESS:	BUSINESS PHONE:
MAILING ADDRESS:	ALT PHONE:
PRIMARY CONTACT NAME AND TITLE:	EMAIL:

2 - CONTRACTOR(S) INFORMATION (list provider or manufacturer, if different from the licensee, who provides products to the center or optional premises licensee)

NAME:	PHONE:
BUSINESS ADDRESS:	
RESIDENCE ADDRESS:	
NAME:	PHONE:
BUSINESS ADDRESS:	
RESIDENCE ADDRESS:	

5 - BACKGROUND INFORMATION

Has the applicant ever received a violation notice, suspension, or revocation for any privileged license (i.e., Liquor, Gaming, Racing and Medical Marijuana) law violation, have charges pending, or has the applicant applied for or been denied a privileged license anywhere in the United States?

Yes No If yes, attach explanation, including date(s) and location(s).

Has the applicant, any partners, any officers, any stockholders or directors of said applicant ever been convicted of a crime, or convicted of any privileged license (i.e., Liquor, Gaming, Racing and Medical Marijuana) violation(s)?

Yes No If yes, attach explanation, including date(s) and location(s).

Is the applicant, any partners, any officers, any stockholders or directors of said applicant delinquent in the payment of and judgments or tax liabilities due to any governmental agency anywhere?

Yes No If yes, attach detailed explanation and any documents to prove settlement or resolution.

Has the applicant previously been issued a Medical Marijuana license (include any of the partners, officers, members, stockholders or directors of said applicant)?

Yes No If yes, attach explanation, to identify the business and any current or former financial interest in said business including any loans to or from another license or licensee.

6 - PREMISES INFORMATION**CHECK ONE BOX IN EACH SECTION (AS APPLICABLE)**

THIS APPLICATION MUST BE SUBMITTED WITH A COPY OF THE CITY OF COLORADO SPRINGS SALES TAX LICENSE (OR TAX LICENSE APPLICATION RECEIPT) FOR EACH PREMISE / BUSINESS LOCATION, AS APPLICABLE.

PREMISES / BUSINESS LOCATION INFORMATION

Type (Check One) Center Optional Premises Cultivation Infused Products Manufacturing

BUSINESS ADDRESS: _____ PROPERTY TAX SCHEDULE NO. : _____

MANAGER NAME/CONTACT: _____

BUSINESS PHONE: _____ ALTERNATE PHONE: _____

TERMS OF LEGAL POSSESSION FOR WHICH APPLICATION IS MADE: OWN LEASE

IF LEASED, PROVIDE THE TERMS: START DATE: _____ END DATE: _____

DIMENSIONS OF PREMISES: _____ TOTAL SQUARE FOOTAGE: _____

EMPLOYEE INFORMATION

NUMBER OF EMPLOYEES (INCLUDE SUPPORT STAFF) _____

PREMISES / BUSINESS LOCATION INFORMATION

Type (Check One) Center Optional Premises Cultivation Infused Products Manufacturing

BUSINESS ADDRESS: _____ PROPERTY TAX SCHEDULE NO. : _____

MANAGER NAME/CONTACT: _____

BUSINESS PHONE: _____ ALTERNATE PHONE: _____

TERMS OF LEGAL POSSESSION FOR WHICH APPLICATION IS MADE: OWN LEASE

IF LEASED, PROVIDE THE TERMS: START DATE: _____ END DATE: _____

DIMENSIONS OF PREMISES: _____ TOTAL SQUARE FOOTAGE: _____

EMPLOYEE INFORMATION

NUMBER OF EMPLOYEES (INCLUDE SUPPORT STAFF) _____

PREMISES / BUSINESS LOCATION INFORMATION			
Type (Check One)	<input type="checkbox"/> Center	<input type="checkbox"/> Optional Premises Cultivation	<input type="checkbox"/> Infused Products Manufacturing
BUSINESS ADDRESS:		PROPERTY TAX SCHEDULE NO. :	
MANAGER NAME/CONTACT:			
BUSINESS PHONE:		ALTERNATE PHONE:	
TERMS OF LEGAL POSSESSION FOR WHICH APPLICATION IS MADE: <input type="checkbox"/> OWN <input type="checkbox"/> LEASE			
IF LEASED, PROVIDE THE TERMS: START DATE: _____ END DATE: _____			
DIMENSIONS OF PREMISES: _____ TOTAL SQUARE FOOTAGE: _____			
EMPLOYEE INFORMATION			
NUMBER OF EMPLOYEES (INCLUDE SUPPORT STAFF) _____			

PREMISES / BUSINESS LOCATION INFORMATION			
Type (Check One)	<input type="checkbox"/> Center	<input type="checkbox"/> Optional Premises Cultivation	<input type="checkbox"/> Infused Products Manufacturing
BUSINESS ADDRESS:		PROPERTY TAX SCHEDULE NO. :	
MANAGER NAME/CONTACT:			
BUSINESS PHONE:		ALTERNATE PHONE:	
TERMS OF LEGAL POSSESSION FOR WHICH APPLICATION IS MADE: <input type="checkbox"/> OWN <input type="checkbox"/> LEASE			
IF LEASED, PROVIDE THE TERMS: START DATE: _____ END DATE: _____			
DIMENSIONS OF PREMISES: _____ TOTAL SQUARE FOOTAGE: _____			
EMPLOYEE INFORMATION			
NUMBER OF EMPLOYEES (INCLUDE SUPPORT STAFF) _____			

PREMISES / BUSINESS LOCATION INFORMATION			
Type (Check One)	<input type="checkbox"/> Center	<input type="checkbox"/> Optional Premises Cultivation	<input type="checkbox"/> Infused Products Manufacturing
BUSINESS ADDRESS:		PROPERTY TAX SCHEDULE NO. :	
MANAGER NAME/CONTACT:			
BUSINESS PHONE:		ALTERNATE PHONE:	
TERMS OF LEGAL POSSESSION FOR WHICH APPLICATION IS MADE: <input type="checkbox"/> OWN <input type="checkbox"/> LEASE			
IF LEASED, PROVIDE THE TERMS: START DATE: _____ END DATE: _____			
DIMENSIONS OF PREMISES: _____ TOTAL SQUARE FOOTAGE: _____			
EMPLOYEE INFORMATION			
NUMBER OF EMPLOYEES (INCLUDE SUPPORT STAFF) _____			

MEDICAL MARIJUANA BUSINESS LICENSE APPLICANT INTERVIEW AND RELEASE

Pursuant to C.R.S. § 12-43.3-307

Applicant Name:		Any other name(s) by which you are known:			
Date of birth:	Place of birth:	SSN:	Driver License State and No.	U. S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No	

If Naturalized, state where	Date of Naturalization	Name of District Court
Naturalization Certificate Number	Date of Certification	If an alien, give Alien Registration Card Number

<input type="checkbox"/> Male	Phone Number	Race	Height	Weight	Eyes	Hair
<input type="checkbox"/> Female						

RESIDENCE ADDRESS FOR THE PAST FIVE (5) YEARS (INCLUDE CITY AND STATE)

Current Address:	Dates:
Previous Address(es):	Dates:

PERSONAL - FINANCIAL/BANK ACCOUNTS (INCLUDE NAME AND ADDRESS)

Name and Address of Institution:	Account No.

BUSINESS / TRADE NAME OF LICENSE APPLICATION

BUSINESS ADDRESS

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BUSINESS - BANK NAME AND ACCOUNT NUMBER

Name:	Account No.

PREVIOUS MEDICAL MARIJUANA BUSINESS LICENSE(S) HELD BY APPLICANT (IF APPLICABLE)

NAME OF BUSINESS	ADDRESS

Has the applicant ever received a violation notice, suspension, or revocation for any privileged license (i.e., Liquor, Gaming, Racing and Medical Marijuana) law violation, have charges pending, or has the applicant applied for or been denied a privileged license anywhere in the United States?

Yes No If yes, attach explanation, date(s) and location(s).

Has the applicant, any partners, any officers, any stockholders or directors of said applicant **ever been convicted of a crime**, or convicted of any privileged license (i.e., Liquor, Gaming, Racing and Medical Marijuana) violation(s)?

Yes No If yes, attach explanation, date(s) and location(s).

NAME, DOB, ADDRESS, PHONE NUMBER, AND PERCENTAGE OF THOSE HAVING A FINANCIAL INTEREST IN THE BUSINESS

NAME	DATE OF BIRTH	ADDRESS	PHONE NUMBER	% OWNED

By signing this document, I authorize the City of Colorado Springs to now and annually check for any pertinent criminal history.

Signature: _____ Date: _____

DO NOT WRITE BELOW THIS LINE

Fingerprinted: _____ Date: _____ Time: _____ Police Dept. / ID Tech. _____

BACKGROUND INVESTIGATION – VNI ONLY

- The Police Department **has** objections to the issuance of this Medical Marijuana business license.
- The Police Department **has no** objections to the issuance of this Medical Marijuana business license at this time.

	PENDING	COMPLETED	Date: _____	Detective/VNI : _____
NCIC			Date: _____	City Clerk's Office: _____
CCIC				
CBI				

DO NOT ALTER THESE FORMS IN ANY MANNER

CITY OF COLORADO SPRINGS

CONSENT TO RELEASE FINANCIAL INFORMATION

TO WHOM IT MAY CONCERN:

WHEREAS, an application for: (check all that apply)

- Medical Marijuana Center License
Medical Marijuana Optional Premises License
Medical Marijuana Infused Products Manufacturer License

has been submitted by applicant/licensee, trade name

and I, print individual's name am associated with said applicant in the capacity of office or position held.

I fully understand that an investigation of my credit standing, business reputation, and financial status is necessary for approval of said license and continued operation if said license is issued.

I hereby consent to and authorize the release of any and all personal or business books, records, check books, bank statements and records, financial data, balance sheets, income accounts, all tax records and related documents from any town, city, county, city and county, state, and/or any federal government agency or any entity that possesses such tax records to include but not limited to all tax forms and all other applicable data and information relative to my credit standing, business reputation and financial status by any person or entity having possession or control thereof to any person presenting a copy of this signed Consent to Release Financial Information, upon the express condition, that this release is limited to an investigation conducted in relation to licensing and operation of the Medical Marijuana business. This consent shall continue to operate so long as above-named licensee holds said license, if granted and for the term or terms of any renewals or extensions thereof.

Signature of applicant

STATE OF)
)
COUNTY OF) ss.

Subscribed and sworn to before me this day of, 20.

My Commission Expires:

Notary Public Signature:

Any information obtained pursuant to this form will be confidential, for law enforcement purposes only and available only to law enforcement personnel with proper identification.

CITY OF COLORADO SPRINGS POLICE DEPARTMENT AFTER-HOURS EMERGENCY CONTACT INFORMATION

CONFIDENTIAL INFORMATION FOR THE COLORADO SPRINGS POLICE AND FIRE DEPARTMENT IN THE EVENT OF EMERGENCY NOTIFICATIONS AND RESPONSES

BUSINESS/COMPLEX NAME _____ DATE _____

ADDRESS _____

PHONE _____ (MAIN#) OR _____ (ALTERNATE/AFTER HOURS#)

GATE CODES/DOOR CODES _____ LOCK BOX LOCATION _____

ANY KNOWN HAZARDOUS MATERIALS ON THE LOCATION _____

IN THE EVENT OF AN EMERGENCY REQUIRING CONTACT WITH A RESPONSIBLE PARTY FOR THE LOCATION, LIST THE APPROPRIATE CONTACTS IN THE ORDER TO BE CALLED. IF THIS IS A RESIDENTIAL SITE (APARTMENT/TOWNHOME), PLEASE LIST AN ON-SITE MANAGER OR MAINTENANCE PERSON WITH MASTER KEYS.

1st) _____
Print Name _____ Title _____

_____ Address _____ Hm. Phone _____ Cell or Pager _____

2nd) _____
Print Name _____ Title _____

_____ Address _____ Hm. Phone _____ Cell or Pager _____

3rd) _____
Print Name _____ Title _____

_____ Address _____ Hm. Phone _____ Cell or Pager _____

NOTE:

CHANGES TO THIS INFORMATION SHOULD BE MADE IMMEDIATELY BY CALLING THE COLORADO SPRINGS POLICE DEPARTMENT (719) 444-7000, OR BY MAILING TO THE COLORADO SPRINGS POLICE DEPARTMENT COMMUNICATION CENTER, 705 SOUTH NEVADA AVENUE, COLORADO SPRINGS, CO 80903.

**MEDICAL MARIJUANA RULES AND REGULATIONS
FOR THE CITY OF COLORADO SPRINGS**

PART 1 – General Rules

Section 1 – Applicability

Rule 1.1.00 Applicability of Rules

Section 2 – Authority and Jurisdiction

Rule 1.2.00 General

Rule 1.2.01 City Clerk

Rule 1.2.02 Jurisdiction of Authority

Section 3 – Hearings

Rule 1.3.00 Conduct of Hearings

Rule 1.3.01 Final Agency Action

Section 4 – Inspections

Rule 1.4.00 Inspection of Books and Records

Rule 1.4.01 Inspection of Licensed Premise

PART 2 – Application and Proceedings (Non-Disciplinary)

Section 1 – Applications and Forms

Rule 2.1.00 Applications

Rule 2.1.01 Forms and Fees

Rule 2.1.02 Application Requirements for Medical Marijuana

Business License

Rule 2.1.03 Application Review and Findings for Medical Marijuana

Business License

Rule 2.1.04 Unlawful Financial Interest, Assistance, Owner-Manager

Rule 2.1.05 Transfer of Ownership and Changes in Licensed Entities

Rule 2.1.06 Changing, Altering or Modifying Licensed Premises

Rule 2.1.07 Change of Trade Name

Rule 2.1.08 Change of Location

Rule 2.1.09 License Renewal

Rule 2.1.10 Notice of Pending Denial

**PART 3 – Disciplinary Proceedings: Rules Related to Suspension, Revocation
and Non-Renewals**

Section 1 – General Provisions Applicable to All Disciplinary Proceedings

Rule 3.1.00 Notice

Rule 3.1.01 Discovery and Exhibits

Rule 3.1.02 Hearings

Rule 3.1.03 Decision

Rule 3.1.04 Penalty

Rule 3.1.05 Summary Suspensions

**Rule 3.1.06 Disposition of Unauthorized Marijuana or Marijuana-
Infused Products and Related Materials**

Rule 3.1.07 Renewal Hearings

Rule 3.1.08 Consequence of Inactivity

MEDICAL MARIJUANA RULES AND REGULATIONS FOR THE CITY OF COLORADO SPRINGS

PART 1 – General Rules

Section 1 – Applicability

Rule 1.1.00 Applicability of Rules

In addition to any other rules or laws which may be applicable, these rules shall govern all Medical Marijuana business license applications, suspension or revocation proceedings, or license renewals of any kind whatsoever which have been filed with the City Clerk as the Local Licensing Authority ("Authority") for the City of Colorado Springs.

Section 2 – Authority and Jurisdiction

Rule 1.2.00 General

The Local Licensing Authority (or the “Authority”) of the City of Colorado Springs for Medical Marijuana business licenses as authorized by Colorado Revised Statutes, the rules and regulations of the state licensing authority, the Code of the City of Colorado Springs and by these rules and regulations, shall possess all powers given to local licensing authorities by the provisions of state statutes, City Code and state and local rules and regulations.

Rule 1.2.01 City Clerk

The City Clerk shall be the Local Licensing Authority for the City of Colorado Springs, except as otherwise provided by ordinance or by these rules. The City Clerk shall function as the Licensing Officer and the Deputy City Clerk shall function as the Deputy Licensing Officer.

Rule 1.2.02 Jurisdiction of Authority

A. The Local Licensing Authority or its designee shall have jurisdiction over all Medical Marijuana business licensing matters related to licensed premises within the City of Colorado Springs.

B. The jurisdiction and authority of the Local Licensing Authority is delegated to the following designees:

1. License Enforcement Officer – The City Clerk's designee assigned to review and make recommendations to the Deputy Licensing Officer regarding Medical Marijuana business applications and renewals. The License Enforcement Officer shall be responsible for coordinating the issuance of show cause documents in the event of an alleged license violation. The License Enforcement Officer shall assist the Authority by receiving all applications,

conducting investigations, coordinating with other City departments and state agencies as required, and by scheduling public hearings.

2. Deputy Licensing Officer –The Deputy City Clerk or the City Clerk's designee responsible for reviewing, granting or denying Medical Marijuana business license applications. The Deputy Licensing Officer shall also sign show cause documents on a finding of probable cause that there has been a business license violation.

3. Hearing Officer – An independent hearing officer appointed by the City Clerk and acting on behalf of the Local Licensing Authority who conducts hearings on appeals from the Deputy Licensing Officer's decisions, and on orders to show cause for alleged license violations.

Section 3 – Hearings

Rule 1.3.00 Conduct of Hearings

A The Local Licensing Authority shall conduct public hearings on appeals of the denial of a license and suspensions or revocations of a Medical Marijuana business license, including hearings to temporarily or summarily suspend a Medical Marijuana business license.

B. All hearings shall be open to the public. Any hearing may be adjourned and reconvened at a time and place determined by the Hearing Officer.

C. Public notice of all hearings shall be posted pursuant to the Colorado Springs City Charter § 3-60(d). Licensees issued an order to show cause shall be given at least ten (10) days prior notice of the time, place, and nature of the hearing. Notice shall be served personally or by mailing by first-class mail to the last address furnished to the Local Licensing Authority by the applicant or licensee to be notified. Appeals from the Deputy Licensing Officer's decision must be presented in writing to the City Clerk's Office within ten (10) of the decision. Failure to appeal the Deputy Licensing Officer's decision in accord with this section shall be deemed a waiver of the right to appeal pursuant to CRCP 106 by virtue of a failure to exhaust administrative remedies.

D. If an applicant, licensee, or the City requests postponement of a hearing, the Hearing Officer shall have the discretion to continue the hearing as it deems fit.

E. At hearings on appeal of denial of a license application, the burden shall be on the appellant to establish, that the Deputy Licensing Officer exceeded its jurisdiction or abused its discretion based on evidence in the record before the Deputy Licensing officer. The issues discussed at the hearing will be limited to the reasons for denial contained in the City's denial notice. Evidence supplementing the record before the Deputy Licensing Officer shall not be presented at the hearing unless the Applicant, the City, and the Hearing Officer all stipulate that it should be submitted. If the parties do stipulate to admission of evidence, they will be required to exchange a list of witnesses with a concise statement of anticipated testimony as well as exhibits at least three (3) business days prior to the hearing. Briefs containing legal argument may be submitted

at the Hearing Officer's discretion. If briefing is ordered, the Hearing Officer will provide the parties with a briefing schedule and page limits. At the Deputy Licensing Officer's request, the City may be represented by a prosecuting attorney.

F. At suspension or revocation, the City shall have the burden to establish that a violation occurred by a preponderance of the evidence, as provided in Rule 3.1.02

G. Evidence and requirements of proof shall conform, to the extent practicable, with those in civil non-jury cases in the district courts. Evidence not admissible under those rules may be admitted if the evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Incompetent and unduly repetitious evidence may be excluded. Documentary evidence may be received in the form of a copy, but, upon request, a party shall be given the opportunity to compare the copy with the original. The Hearing Officer may take notice of general, technical, or scientific facts within the Hearing Officer's knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to dispute the fact noticed.

H. All testimonial evidence, whether provided in person or by affidavit, must be sworn. The Hearing Officer shall have the power to issue subpoenas, to compel testimony or present documents, records or any other tangible evidence. Questions concerning the materiality, relevancy or competency of witnesses to testify on behalf of or in opposition to a licensee or applicant will be determined as questions arise.

I. Any applicant, licensee, or person testifying before the Hearing Officer may offer exhibits or demonstrative evidence to the Licensing Authority for its consideration. The Hearing Officer shall have the discretion to accept or reject the offer and to weigh the exhibit or demonstrative evidence as it deems appropriate.

J. The Hearing Officer may establish reasonable time limits for presentations, which shall apply to both parties. Whenever necessary, the Hearing Officer shall direct that remarks be germane to the item. Further, the Hearing Officer has the right to limit the presentation of evidence tending to be repetitious, irrelevant, speculative or conjectural.

K. Any person having business before the Hearing Officer shall provide a qualified interpreter if necessary to participate in the hearing subject to the following:

Every person acting as an interpreter shall be administered an oath or affirmation that the person will make a true translation; and

1. Every person acting as an interpreter shall be required to be qualified as an interpreter and accepted by the Hearing Officer. A person may be qualified by virtue of their knowledge, skill, experience, training, or education.
2. In determining whether an individual is qualified to act as an interpreter in any proceeding before the Hearing Officer, the Hearing Officer may consider, but is not limited to:

- a. Whether the interpreter is a certified Court interpreter by the State of Colorado Office of the State Court Administrator or the Federal Courts;
- b. Any special training or education received by the interpreter in providing interpretation and/or translation;
- c. The interpreter's means of knowledge regarding the languages translated from and translated to;
- d. Number of times that the interpreter has performed interpretation/translation services and the type of proceedings where these services were rendered; and
- e. The relationship of the interpreter to the individual who will be using the interpreter's service to determine whether any bias, or other motive would preclude the interpreter's ability to provide a true, literal and complete bilateral translation of the entire proceeding.

L. If an appellant fails to appear at a scheduled appeal hearing, the application will be deemed abandoned and will be denied. If a licensee receives notice pursuant to Rule 3.1.00 and fails to appear at a scheduled disciplinary hearing pursuant to Part 3 – Disciplinary Proceedings: Rules Related to Suspension, Revocation and Non-Renewals, the hearing shall go forward in the licensee's absence.

Rule 1.3.01 Final Agency Action

The decision of the Hearing Officer shall constitute final agency action of the Local Licensing Authority for all purposes under the Colorado Revised Statutes, the rules and regulations of the state licensing authority, the Code of the City of Colorado Springs and these rules and regulations. Any appeal of the decision of the Hearing Officer shall be to the district courts of Colorado in accord with the Colorado Rules of Civil Procedure as now existing or later amended. There shall be no stay of execution of the Hearing Officer's decision pending decision by the District Court, except by court order. Failure to appeal the decision of the Hearing Officer shall be deemed to be a waiver of the right of appeal.

Section 4 – Inspections

Rule 1.4.00 Inspection of Books and Records

Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the Local Licensing Authority, its designees, or the Colorado Springs Police Department. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three (3) immediately preceding tax years. The Local Licensing Authority may require any licensee to furnish information it considers necessary for the proper administration of the state code or the Code of the City of Colorado Springs 2001, as amended. If the Local Licensing Authority's investigation is unable to determine the state of the business' financial operations, the Local Licensing

Authority may select and engage the services of an auditor who shall also have access to all books and records of the licensee. Engagement and payment of an auditor shall be accomplished in accord with the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations.

Rule 1.4.01 Inspection of Licensed Premise

The licensed premises, including any places of storage where Medical Marijuana is grown, stored, cultivated, sold, or dispensed, shall be open and made immediately available for inspection by the Local Licensing Authority and the Colorado Springs Police Department during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, the area shall be made available for inspection without delay, and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection.

PART 2 – Application and Proceedings (Non-Disciplinary)

Section 1 – Applications and Forms

Rule 2.1.00 Applications

A. All applications for a Medical Marijuana business license, including but not limited to new license applications, renewal applications, applications for change of location, applications for change of corporate structure, applications for transfer of ownership, applications for manager registration, or applications for change of trade name, as well as applications for expansion, alteration or modification of the premises, shall be filed with the Local Licensing Authority on approved forms, together with all fees and documents required by the City and State, with the exception of State Associate license material, which the applicant must forward directly to the State Licensing Authority.

B. A request for a change in the class of license from that presently held by a licensee shall be considered an application for a new license.

Rule 2.1.01 Forms and Fees

The following shall be filed:

A. State Medical Marijuana business license application forms, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete application forms shall be rejected.

B. The Local Licensing Authority application forms, as provided by the City, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete application forms shall be rejected. Applications requiring

additional documentation will have a ten (10) calendar day period from date of notice for remedy, or the application may be deemed withdrawn.

~~C.~~ Local application fees, payable by certified check or money order to the City of Colorado Springs, as established by separate City Council Resolution. Application fees will not be refunded upon withdrawal or denial of an application or license. The application fee is valid for all license types submitted concurrently for a single applicant. Subsequent applications for additional locations require an additional application fee.

D. Local license fees, payable by certified check or money order to the City of Colorado Springs, as established by separate City Council Resolution. License fees will be due within five (5) days of the Local Licensing Authority posting written notice at the premises that the license has been approved conditional on payment of the license fee. If the applicant fails to pay the license fee within five (5) days after notice is posted at the premises, the application will be deemed withdrawn. License fees may be refunded only if the application or subsequent licensing period had not been approved or effective on the date of request.

E. A State application fee payable to the Colorado Department of Revenue shall be filed in the form of a certified check or money order. The amount shall be provided by C.R.S. 12-43.3, Part 5, as amended.

F. A State license fee payable to the Colorado Department or Revenue shall be filed in the form of a certified check or money order. The amount shall be provided by C.R.S. 12-43.3, Part 5, as amended.

Rule 2.1.02 Application Requirements for Medical Marijuana Business License

A. Every application for a license to operate a Medical Marijuana business shall be legible, be filed in triplicate and shall include but not be limited to the following:

1. The full name and any other names under which each owner is or has been known, the address and telephone number, date of birth, and social security number of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant;

2. The full name and any other names under which the managing owner, registered agent or managing agent is or has been known, the residence address, contact telephone number, date of birth and social security number of the managing owner, registered agent and/or managing agent;

3. The name under which the applicant intends to do business, the address of the local principal place of business and any optional premises;

4. A description of the specific types of services to be rendered;
5. An Applicant Interview Form and one classifiable set of fingerprints for each owner and managing agent;
6. The residence address of each owner, registered agent and managing agent for the five (5) years prior to the date of the application;
7. Statement containing the date, place and disposition of any criminal history of any owner and registered agent and/or managing agent of the applicant;
8. A statement containing information relating to the denial, suspension or revocation of any business license held by any owner and registered agent and/or managing agent of the applicant, whether in this state or any other state;
9. A release statement signed by the applicant, each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant allowing the City to check and review all known criminal and financial records at any time;
10. A professionally drawn 8½" x 11" floor plan diagram, drawn to a specified, commonly used scale (e.g. 1" = 20', ¼" = 1') of the Medical Marijuana premises showing the uses and functions within the premises, including the dimensions of the rooms and their primary functional use, and a depiction of where any services other than the dispensing of Medical Marijuana are proposed to occur (such as offices, bathrooms, storage areas, waiting areas and hallways).; and
11. If the applicant is not the owner of the proposed location of the Medical Marijuana business, a notarized statement from the owner of the property authorizing the submission of the application pursuant to City Code;
12. A copy of the deed, lease, contract or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed reflecting the ownership and right to possess the property that is the subject of the Medical Marijuana business license;
13. A statement of the applicant's personal, financial and management associations and the interests of other persons in the Medical Marijuana business and a statement of the business backgrounds of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant with applicable documentation;
14. An acknowledgement and consent that a background investigation will be conducted;

15. Evidence of a City of Colorado Springs Sales Tax License, as applicable;
16. A listing of the number of employees, contractors, and managers;
17. Supporting documents that ensure that the Medical Marijuana business will operate in a manner consistent with State Law and City Code and any other documents required by the Local Licensing Authority.
18. Suitable additional evidence of citizenship, residence, and good character and reputation.
19. Five (5) years employment history of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant.

B. An application for an original, renewal, or optional premises Medical Marijuana business license shall be accompanied by:

1. The fees established by the City;
2. If applicable, a trade name registration, if any, and a certificate of good standing from the Colorado Secretary of State;
3. Upon application for the initial license, a statement of the work history for the last five (5) years of each owner/principal/managing agent; and
4. A release statement signed by the applicant, owner(s), principal(s) and managing agent allowing the City to check annually for any pertinent criminal history.

C. Burden of Proof: The applicant shall have the burden to establish that the applicant has met all the requirements of the state laws and local ordinances governing the particular application by a preponderance of the evidence.

Rule 2.1.03 Application Review and Findings for Medical Marijuana Business License

The License Enforcement Officer shall gather evidence as required by State and local law and ordinance. The investigation shall consider the following matters:

- A. Whether it satisfactorily appears that the applicant or licensee is or will be entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by ownership;
- B. Whether the premises sought to be licensed is in compliance with the zoning, fire, building and other applicable laws of the City of Colorado Springs;

C. Whether the building containing the licensed premises is located more than four hundred feet (400') from any K-12 school, alcohol or drug treatment facility or residential child care facility.

D. Whether the applicant or licensee has submitted false applications, made willful misrepresentations and/or committed fraudulent acts;

E. Whether the applicant or licensee has a criminal history involving crimes of moral turpitude. By way of example, crimes of moral turpitude shall include, but not be limited to: murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drug or narcotics convictions;

F. Whether the applicant or licensee has had previous Medical Marijuana business licenses denied, suspended or revoked as a result of violations of law;

G. Whether the applicant or licensee has been found to be delinquent in the payment of any state or local taxes, and whether record of the tax delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means;

H. Whether the applicant or licensee has committed violations of law resulting in suspension, revocation or denial of any other government granted business permit, clearance, or license. For purpose of this section, the suspension or revocation of a state-issued driver's license shall not be considered;

I. When making a determination as to the character, record or reputation of a licensee or applicant, the License Enforcement Officer shall consider evidence of rehabilitation. Evidence of rehabilitation may include, but not be limited to, evidence of no criminal history, education achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the last conviction.

Rule 2.1.04 Unlawful Financial Interest, Assistance, Owner-Manager

A. Each license must be held by the owner of the licensed Medical Marijuana business. "Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from the operation or sale of the establishment.

In determining who is the owner, elements considered, in addition to risk of loss and opportunity for profit, include: (1) possession; (2) who controls the license; (3) who guarantees the establishment's debts or production levels; (4) who is beneficiary under the establishment's insurance policies; and (5) who acknowledges liability for the business' federal, state, or local taxes.

B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A license may not be held in the name of the manager.

C. A spouse of a licensee may hold a license in his or her own right if he or she is the owner of the separately licensed Medical Marijuana business, regardless of whether the spouses file separate or joint income tax returns.

D. A partnership interest, limited or general, a joint venture interest, ownership of a share or shares in a corporation or a limited liability company which operates a Medical Marijuana business, or having a secured interest in furniture, fixtures, equipment or inventory of a Medical Marijuana business constitutes ownership and a direct financial interest. Each individual having these types of ownership or direct financial interests must obtain and hold the appropriate license.

E. Any person who guarantees production levels, yields, quantities produced or any other obligations of the licensee or its operation shall be deemed to have a financial interest.

Rule 2.1.05 Transfer of Ownership and Changes in Licensed Entities

A. Corporations and Limited Liability Companies

1. If the applicant for any license is a corporation or limited liability company, it shall submit with the application the names, addresses, the names and addresses of any managers, a copy of its articles of incorporation or articles of organization, and evidence of its qualification to do business within this State. In addition, each applicant shall submit names, addresses and background forms for all persons owning any of the outstanding or issued capital stock, or of any person holding a membership interest of ten percent (10%) or greater.

2. Any transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Colorado Medical Marijuana Code shall be reported at least thirty (30) days prior to the transfer or change. With the report, the licensee shall submit names, addresses, and background forms for any new officer, director, or stockholder acquiring any outstanding capital stock.

3. Any transfer of membership interest or any change in managing members of any limited liability company holding a license shall be reported at least thirty (30) days prior to the transfer or change. With the report, the licensee shall submit names, addresses and background forms for any new manager, or member acquiring a membership interest.

B. Partnerships

1. If the applicant for any license is a general partnership, limited partnership, limited liability partnership or limited liability limited partnership, the applicant shall submit names, addresses and background forms for all of its partners and a copy of its partnership agreement;

2. Any transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported at least thirty (30)

days prior to the transfer of change. With the report, the licensee shall submit the names, addresses and background forms for any new partner, or any other partner acquiring a partnership interest.

C. Entity Conversions

1. Any licensee that qualifies for an entity conversion shall not be required to file a transfer of ownership application upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least thirty (30) days prior to the conversion. Evidence required shall include, but not be limited to, any conversion documents or agreements for conversion at least ten (10) days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, at least thirty (30) days prior to the date of the conversion, the licensee shall submit names, addresses and background forms or any new officers, directors, managers, general or managing partners, and for all persons having an ownership interest of ten percent (10%) or greater.

All reports required by this rule shall be on forms supplied by the Local Licensing Authority or the State of Colorado.

D. No application for a transfer of ownership may be received or acted upon by either the State or Local Licensing Authority if the transferring licensee has surrendered its license or had it canceled or revoked by either Authority prior to submission of the transfer application. In cases where surrender, cancellation or revocation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to these Rules and Regulations.

E. Changes in registered managers shall be reported to the Local Licensing Authority in accord with the State Medical Marijuana Code and State Rules and Regulations.

Rule 2.1.06 Changing, Altering or Modifying Licensed Premises

A. The licensee shall make no physical change, alteration or modification of the premises which materially or substantially alters the premises or the usage of the premises from the plans and specifications submitted at the time of obtaining the license, or as defined by these Rules, without prior written consent from the Local Licensing Authority as set forth in this Rule. For purposes of this Rule, physical changes, alterations or modifications of the premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises, whether the increase or decrease be to restricted or unrestricted areas.
2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other means of public ingress and/or egress that permits access to

the licensed premises from or between public streets or thoroughfares, adjacent or abutting buildings, rooms or premises.

3. Any material change in the interior of the licensed premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The foregoing shall not apply to painting and redecorating the licensed premises; the installation or replacement of fixtures or equipment or plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.

In making its decision with respect to any proposed change, alteration, expansion or modification the Local Licensing Authority must consider whether the licensed premises, as changed, altered, expanded or modified, will meet all of the pertinent requirements of applicable State and City law.

Rule 2.1.07 Change of Trade Name

No licensee shall change the name or trade name of the licensed business without submitting completed and approved form(s) with required fee(s) to the Local Licensing Authority at least ten (10) days prior to the change.

Rule 2.1.08 Change of Location

A. Before the location of a license is changed, the licensee shall submit an application on forms provided by the State Licensing Authority in duplicate to the Local Licensing Authority for the change of location, accompanied by the required application fee(s).

B. All applications for a change in location shall be filed with the Local Licensing Authority and shall be subject to Part 2 of these Rules of Procedure, except that the character of the applicant shall not be considered.

Rule 2.1.09 License Renewal

A. All applications for renewal of a Medical Marijuana Business License shall be on forms provided by the State Licensing Authority, and must be submitted in duplicate to the Local Licensing Authority, no later than forty-five (45) days prior to the license expiration date, together with the required license and renewal application fees, in the form of a certified check or money order.

B. If an application for renewal is filed less than forty-five (45) days prior to the license expiration date, and no other objections have been filed with the Local Licensing Authority as set forth in Subsection E of this Section, then the Authority shall process the application as provided in Subsection D of this Section. If objections are filed, then the provisions of Rule 3.1.07 shall apply. If, due to the lateness of the filing of the renewal application form, the license cannot be renewed by the City and by the State prior to its expiration date, then the licensee shall not be allowed to sell, distribute or cultivate Medical Marijuana, or manufacture Medical Marijuana-infused products until a new license application has been approved and issued to the licensee, unless the Authority, for good cause shown, expressly waives this provision. No application for renewal of a Medical Marijuana business license shall be accepted after the date of expiration except as provided in Subsection C, below.

C. Notwithstanding the provisions of Subsection B of this Section, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee payable to the City of Colorado Springs. A licensee who files a late renewal application and pays the required fee may continue to operate until the Local Licensing Authority has taken final action to approve or deny the licensee's late renewal application. No late renewal application shall be accepted more than ninety (90) days after the expiration of a licensee's annual license. Any licensee whose permanent annual license has been expired for more than ninety (90) days must apply for a new license pursuant to C.R.S. 12-43.3-Part 3, and shall not cultivate, distribute or sell any Medical Marijuana, or manufacture any Medical Marijuana-infused products until all required licenses have been obtained.

D. Upon receiving the properly completed renewal application, the Local Licensing Authority shall assemble the file of the applicant containing all of the various City departments' records regarding the applicant or the premises dating back for a period of at least one (1) year. Unless there is evidence to the contrary, whether contained in the applicant's file or otherwise, it will be presumed that the licensed premises comply with the provisions of the statutes and applicable regulations, and that the character of the applicant continues to be satisfactory. If these presumptions apply, the application shall then be approved by the Authority and forwarded to the State Department of Revenue, Medical Marijuana Enforcement Division.

E. In the event that an application for a transfer of ownership of a license is pending at the same time that an application for a renewal is pending, both applications shall be processed simultaneously. If the renewal of the license occurs prior to the transfer of the license, then the licensee may continue to operate pending final determination of the application for transfer of ownership. If the transfer of ownership occurs prior to the renewal of the license in the name of the original licensee, then the date of approval of the transfer of ownership shall be the renewal date for the transferee's license and the original licensee's renewal application shall be moot.

Rule 2.1.10 Notice of Pending Denial

If the Deputy Licensing Officer intends to deny any type of Medical Marijuana business application, the applicant shall be provided at least ten (10) calendar days written notice prior to the issuance of the actual denial letter. The applicant shall have the burden to supplement the Deputy Licensing Officer's file with materials relevant to the stated reason for pending denial. Failure of the applicant to supplement the file shall result in a waiver of additional evidence in the file.

PART 3 – Disciplinary Proceedings: Rules Related to Suspension, Revocation and Non-Renewals

Section 1 – General Provisions Applicable to All Disciplinary Proceedings

Rule 3.1.00 Notice

- A. Upon commencement of suspension and revocation proceedings, the Local Licensing Authority shall set a time and place for the hearing of the matter.
- B. The Local Licensing Authority shall give the licensee no less than ten (10) days advance notice of the time, place and nature of the hearing, the authority and jurisdiction under which it is to be held, the violations asserted and/or the good cause generally asserted as the grounds. Notice shall be served personally or by mailing by certified mail to the last address furnished to the City by the licensee, except that the time for Notice of Hearings on license renewal applications shall be governed by Rule 3.1.07. Notwithstanding the above notice requirements, the Hearing Officer may summarily suspend the license without notice pursuant to State law and these Rules.
- C. In the discretion of the City, suspension and revocation proceedings may include violations occurring during the immediate preceding licensing period as well as the current licensing period.
- D. For purposes of disciplinary proceedings, the parties shall be the Licensee and the City.

Rule 3.1.01 Discovery and Exhibits

- A. For purposes of hearings on license suspension or revocation, the parties shall, upon request of the other party, exchange copies of all exhibits intended for introduction at the hearing, exchange all pertinent written reports of witnesses whose testimony is anticipated at hearing, and respond to all other reasonable discovery requests, within a reasonable period of time. In the event a party intends to introduce evidence which is not subject to photocopying or electronic duplication, a description of

the evidence will be provided to the other party and the evidence will be made available for inspection under supervision by appointment.

B. The Hearing Officer shall have the discretion to make any orders necessary to address alleged non-compliance with this Rule. Orders shall include, but not be limited to, ordering the non-complying party to permit the discovery of the material and information not previously disclosed, continuing the hearing, or any other orders that the Hearing Officer deems just under the circumstances. Upon a finding that this Rule has been violated by a party, the Hearing Officer should impose the least severe sanction that will ensure that there is full compliance with this Rule.

Rule 3.1.02 Hearings

A. The Hearing Officer shall conduct hearings on revocation or suspension.

B. The Hearing Officer shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances.

C. Representation. The City may be represented by a prosecuting attorney from the Office of the City Attorney. The licensee may be represented by counsel or may proceed pro se. The licensee will be given an opportunity to be heard, present evidence, cross-examine witnesses and offer evidence in mitigation of any alleged violations. At the Hearing Officer's discretion, a municipal attorney from the Office of the City Attorney may advise the Hearing Officer regarding any procedural questions during a hearing. Under no circumstances will the same municipal attorney act as a prosecuting attorney during any hearing.

D. All hearings before the Hearing Officer shall be electronically recorded. Summary suspension hearings shall be similarly recorded.

E. In all suspension or revocation proceedings before the Hearing Officer, the City shall have the burden to establish that a violation occurred by a preponderance of the evidence.

Rule 3.1.03 Decision

A. The Hearing Officer shall make a written decision within fifteen (15) days after the conclusion of the hearing. The Hearing Officer shall consider only the testimony and evidence presented at the hearing in making his or her decision. A copy of this decision shall be mailed to or served upon the licensee.

B. In the event of revocation, suspension or surrender of the license, no portion of the license fee or any levied occupation tax shall be refunded.

Rule 3.1.04 Penalty

A. Upon a finding by the Hearing Officer that the licensee, or any of the licensee's agents or employees, committed a violation, the Hearing Officer shall have the power to

suspend the license for a period not to exceed six (6) months (to include both time the license is actually suspended and suspension time held in abeyance), or to revoke the license. Any summary suspension ordered pursuant to Rule 3.1.06 shall be further limited in duration by that Rule.

B. In determining an appropriate penalty, the Hearing Officer may consider factors including, but not limited to, any recommended penalties for the violation contained in regulations promulgated by the State Licensing Authority pursuant to State law, any history of violations committed by the licensee or by any of its agents or employees, and any aggravating and mitigating factors.

Rule 3.1.05 Summary Suspensions

A. The Hearing Officer may summarily suspend a license without notice pursuant to state law:

1. Where the Hearing Officer has reasonable grounds to believe and finds that a licensee is guilty of a deliberate and willful violation of any applicable law, rule or regulation; or

2. Where the Hearing Officer has reasonable grounds to believe that the protection of public health, safety or welfare imperatively requires emergency action.

B. Upon the summary suspension of a license, the Hearing Officer shall render an order incorporating these findings.

C. The summary suspension of a license without notice pending any prosecution, investigation, or public hearing shall be for a period not to exceed fifteen (15) days, during which time the City shall institute suspension or revocation proceedings.

D. In the event the Hearing Officer grants a summary suspension and the licensee requests that the hearing date is continued beyond fifteen(15) days, the Hearing Officer shall have discretion to continue the hearing date so long as the licensee stipulates to the summary suspension continuing through the next scheduled hearing date.

E. In the event of the summary suspension of a license, no portion of the license fee or occupation tax shall be refunded.

Rule 3.1.06 Destruction of Unauthorized Marijuana or Marijuana-Infused Products and Related Materials

A. The Colorado Springs Police Department, and the Local Licensing Authority, shall not be required to cultivate or care for any marijuana or marijuana-infused product belonging to or seized from a licensee.

B. If the Hearing Officer issues a final agency order imposing a disciplinary action against a licensee pursuant to § 2.3.108 of the Code of the City of Colorado Springs 2001, as amended, then, in addition to any other remedies, the Hearing Officer's order may specify that some or all of the licensee's marijuana or marijuana-infused product is not Medical Marijuana or a Medical Marijuana-infused Product and is an illegal controlled substance. The order may further specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as Medical Marijuana or a Medical Marijuana-infused Product pursuant to the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations. The final agency order may direct the destruction of any marijuana and marijuana-infused products pursuant to the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations. Destruction of any illegal controlled substances will be under supervision of the Colorado Springs Police Department and the Local Licensing Authority.

C. Following the issuance of a final agency action ordering destruction authorized by subsection (B) of this Rule, a licensee shall have fifteen (15) days to file a petition for stay of agency action with the District Court. The Colorado Springs Police Department and the Local Licensing Authority shall not carry out the destruction ordered by the Hearing Officer until fifteen (15) days have passed from the date of the Hearing Officer's Order without the filing of a petition for stay of agency action, or until the District Court has issued an order denying a stay of agency action.

D. Following the issuance of a final agency action ordering destruction authorized by subsection (B) of this rule, the Local Licensing Authority shall immediately provide written notice to the 4th Judicial District Attorney's Office that an order for destruction has entered and that the order will be executed 15 days after entry of the order unless the 4th Judicial District Attorney's Office notifies the Local Licensing Authority that the marijuana or marijuana-infused product(s) constitute(s) evidence in a criminal proceeding, in which case the 4th Judicial District Attorney's Office will be granted access for that purpose.

E. Whenever a decision of the Hearing Officer suspending a license becomes final, and the licensee petitions the Hearing Officer for an order of clarification permitting the licensee to maintain its inventory, the Hearing Officer may, if in compliance with State Medical Marijuana Rules and Regulations, grant the petition and order that the proposed suspension shall not prohibit the licensee from maintaining its existing inventory.

Rule 3.1.07 Renewal Hearings

A. Whenever the City files an objection to the renewal of a license based on "Good Cause" as that term is used in C.R.S. § 12-43.3-104(1) prior to the renewal of the license, the Authority shall have the discretion to set the matter for a renewal hearing. A hearing on the renewal application shall be held not less than 10 days from the date the licensee receives the City's objection by personal service or certified mail as provided in Rule 3.1.00. A notice of hearing shall be conspicuously posted on the licensed premises for a period of no less than ten (10) days prior to the renewal hearing. The

renewal hearing shall be conducted by the Hearing Officer in accord with this Part 3. The licensee shall be permitted to sell and possess Medical Marijuana pending the renewal hearing.

B. In the event that an application for change of corporate structure is pending at the same time that a renewal hearing is pending, then the change of corporate structure, as applicable, must be determined prior to the license being renewed. If the application for renewal is otherwise in compliance with state statutes and Rule 2.1.09, and the application for change of corporate structure cannot be heard prior to the expiration of the license, the license renewal hearing may be continued by the Hearing Officer after the expiration of the license pending determination of the change of corporate structure issues. Upon the completion of those determinations, the renewal application shall be acted upon by the Hearing Officer. If a renewal hearing is held after the expiration of the license, and the filing of the renewal application is timely, pursuant to the requirements of Rule 2.1.09, then the licensee may continue to operate pending final determination of the change of corporate structure issues prior to the renewal hearing being held.

C. In the event that an application for renewal is pending at the same time that a disciplinary hearing is pending, then the resolution of the disciplinary hearing must be determined prior to the license being renewed. If the application for renewal is otherwise in compliance with state statutes and Rule 2.1.09, and the disciplinary hearing cannot be held prior to the expiration of the license, the license renewal may be extended by the Hearing Officer after the expiration of the license pending determination of the disciplinary hearing. Upon the completion of those determinations, the renewal application shall be acted upon by the Hearing Officer.

Rule 3.1.08 Consequence of Inactivity

A. Where an approved license is for a premises which has not been constructed and placed in operation within one (1) year of approval of the application, in the discretion of the Authority, may be suspended, revoked, or denied upon application for renewal.

B. Where a licensed premise has been inactive for more than one (1) year, the premises may be deemed abandoned and the license, in the discretion of the Authority, may be revoked or denied subsequent renewal.

CHAPTER 2 BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION

ARTICLE 3 SALES OF GOODS AND SERVICES

PART 1 MEDICAL MARIJUANA LICENSE CODE

SECTION:

- 2.3.101: Legislative Declaration
- 2.3.102: Definitions
- 2.3.103: Local Licensing Authority; Delegation Of Duties
- 2.3.104: License Required
- 2.3.105: Fees
- 2.3.106: Application Requirements
- 2.3.107: Application Investigation; Decision
- 2.3.108: Suspension Or Revocation; Hearings; Decision
- 2.3.109: Unlawful Acts

2.3.101: LEGISLATIVE DECLARATION:

- A. The City Council hereby declares it to be in the interest of the health, safety and welfare of the citizens of the City, and a proper exercise of the police power, to require the licensing of persons and businesses providing medical marijuana related services. The provisions of this part are to be consistent with and applied in accord with Colorado Revised Statutes section 12-43.3-101 et seq., the Colorado Medical Marijuana Code ("State Code"). Nothing in this part is intended to conflict with or violate any other City or State law or regulation related to the medical use of marijuana.
- B. It is the intent of this part to prohibit the operation of all retail marijuana establishments within the City of Colorado Springs, and in furtherance of this intent, the Colorado Springs City Council makes the following findings:

1. Article XVIII, section 16 of the Colorado Constitution specifically authorizes a municipality "to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, retail marijuana stores, or retail marijuana establishments through the enactment of an ordinance".

2. Based on careful consideration of article XVIII, section 16 of the Colorado Constitution, and the potential secondary effects of the cultivation and dispensing of marijuana for recreational use, and the retail sale, distribution and manufacturing of marijuana for recreational use or marijuana infused products, City Council finds and determines that these operations have an adverse impact on the health, safety and welfare of the City of Colorado Springs and its inhabitants.

3. Nothing in this part is meant to inhibit any individual's right to personal use of marijuana pursuant to article XVIII, section 16(3) of the Colorado Constitution.

4. Nothing in this part is meant to inhibit or prohibit the operation of any medical marijuana facility licensed pursuant to this part. (Ord. 11-32; Ord. 13-47)

2.3.102: DEFINITIONS¹:

GOOD CAUSE: For purposes of refusing or denying a license renewal, reinstatement, or initial license issuance, this term means:

- A. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Medical Marijuana Code², any rules promulgated pursuant to the State Code, this part or any supplemental local laws, rules or regulations.
- B. The licensee or applicant has failed to comply with any terms or conditions that were placed on its license or application pursuant to an order of the State or Local Licensing Authority.
- C. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

1. Definitions of "educational institution", "drug and alcohol treatment facility", and "residential childcare facility" are found in section 7.2.302 of this Code.

2. CRS §12-43.3-103 et seq.

HEARING OFFICER: A hearing officer who conducts hearings: a) on appeal of the Local Licensing Authority's decisions, and b) on allegations of license violations requiring a suspension or revocation hearing.

LICENSE: A license or registration pursuant to the State Code or this part.

LICENSED PREMISES: The premises specified in an application for a business license under the State Code or this part, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marijuana in accord with the provisions of the State Code or this part.

LOCAL LICENSING AUTHORITY: The City Clerk or the City Clerk's designee acting pursuant to the authority granted under this part.

LOCATION: A particular parcel of land that may be identified by an address or other descriptive means.

MARIJUANA: All parts of the plant of the genus *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as "marijuana" in this section.

MARIJUANA CULTIVATION FACILITY: Any real property used for or upon which there is any type of structure or any such facility that includes or is associated with cultivating, preparing, or packaging marijuana for sale to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

MARIJUANA PRODUCT: Concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

MARIJUANA PRODUCT MANUFACTURING FACILITY: Any real property used for or upon which there is any type of structure or any such facility that includes or is associated with manufacturing, preparing, or packaging marijuana products.

MARIJUANA TESTING FACILITY: Any real property used for or upon which there is any type of structure or any such facility that includes or is associated with analyzing and certifying the safety and potency of marijuana.

MEDICAL MARIJUANA: Marijuana that is grown, sold or used pursuant to the provisions of the State Code and for a purpose authorized by Colorado Constitution article XVIII, section 14.

MEDICAL MARIJUANA CENTER: A person licensed pursuant to the State Code and this part to operate a business as described in Colorado Revised Statutes section 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in Colorado Constitution article XVIII, section 14, but is not a primary caregiver.

MEDICAL MARIJUANA INFUSED PRODUCT: A product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed medical marijuana center or a medical marijuana infused product manufacturer, shall not be considered a food or drug for the purposes of the Colorado Food and Drug Act¹.

MEDICAL MARIJUANA INFUSED PRODUCTS MANUFACTURER: A person licensed pursuant to the State Code and this part to operate a business as described in Colorado Revised Statutes section 12-43.3-404.

OPTIONAL PREMISES: The premises specified in an application for a medical marijuana center license with related growing facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by Colorado Constitution article XVIII, section 14.

OPTIONAL PREMISES CULTIVATION OPERATION: A person licensed pursuant to the State Code and this part to operate a business as described in Colorado Revised Statutes section 12-43.3-403.

PERSON: A natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer or employee thereof.

PREMISES: A distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

¹ CRS title 25, art. 5, pt. 4.

RETAIL MARIJUANA ESTABLISHMENT: A marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a retail marijuana store.

RETAIL MARIJUANA STORE: Any real property used for or upon which there is any type of structure or any such facility that includes or is associated with the sale of marijuana or marijuana products to consumers. (Ord. 11-32; Ord. 13-47)

2.3.103: LOCAL LICENSING AUTHORITY; DELEGATION OF DUTIES:

- A. **General:** The Local Licensing Authority of the City for medical marijuana business licenses as authorized by the State Code, the rules and regulations of the State licensing authority, this Code and local rules and regulations, shall possess all powers given to local licensing authorities by the provisions of State statutes, City Code and State and local rules and regulations.
- B. **Rules And Regulations:** The Local Licensing Authority shall have the authority to promulgate rules and regulations, including those governing the processing of license applications, the administration of licenses and the conduct of hearings on medical marijuana business licensing matters.
- C. **Grant Or Denial Of License Application:** The Local Licensing Authority is responsible for review and grant, denial, and conditioning of grants of applications for medical marijuana businesses.
- D. **Appeals:** The decision of the Local Licensing Authority may be appealed to a hearing officer in accord with article 1, part 8 of this chapter and the medical marijuana licensing rules and procedures. Failure to appeal in accord with this section shall be deemed a waiver of the right to appeal pursuant to CRCP 106 by virtue of a failure to exhaust administrative remedies.
- E. **Appeal To District Court:** The final decision or determination of the hearing officer shall in all cases be final and conclusive. A decision or determination of the hearing officer may only be reviewed by the District Court pursuant to CRCP 106(a)(4). In the event the District Court remands the matter back to the hearing officer or Local Licensing Authority for additional proceedings, there shall be no reinstatement of licensed

privileges pending additional proceedings, except by court order. (Ord. 11-32)

2.3.104: LICENSE REQUIRED:

- A. It shall be unlawful for any person to engage in the business of selling, growing, distributing, processing or infusing any medical marijuana within the City without valid City and State licenses as required by law.
- B. Any license required by this part shall be issued in accord with and upon the payment of the fees provided by State statutes, City Code, and State and local rules and regulations.
- C. All applications and fees for City and State licenses shall be filed with the Local Licensing Authority on forms to be approved by the Local Licensing Authority, together with applicable fees and other information and documents as may be required by the City's medical marijuana licensing rules and regulations. All medical marijuana business licensing records shall be maintained by the Local Licensing Authority. (Ord. 11-32)

2.3.105: FEES: The Local Licensing Authority shall charge fees for applications and licenses, including original and renewal licenses, background checks, copies of licenses, and for other changes to the license. Fees shall be determined and collected by the Local Licensing Authority pursuant to article 1, part 5 of this chapter. (Ord. 11-32)

2.3.106: APPLICATION REQUIREMENTS: All applications for licenses shall be filed with the Local Licensing Authority on approved forms, together with all fees and documents required by the City or State. (Ord. 11-32)

2.3.107: APPLICATION INVESTIGATION; DECISION:

- A. For the Local Licensing Authority to grant a medical marijuana business license, the applicant must comply with all applicable State and local laws, ordinances, rules and regulations, and must meet the following qualifications:
 1. The applicant must be in compliance with City Zoning Code;

2. The applicant must have a sales tax license;
3. The applicant must have possession of the licensed premises;
4. The applicants that are natural persons must be twenty one (21) years of age or older; and
5. The medical marijuana center license applicant must be in possession of a storefront from which the business will be operated.

B. In addition to the grounds set forth in this chapter and applicable State or local law, rules or regulations, the Local Licensing Authority may deny any medical marijuana center, optional premises cultivation operation, and medical marijuana infused products manufacturer license if:

1. The applicant fails to meet those criteria set forth in the Colorado Medical Marijuana Code;
2. Has made a wilful misrepresentation in applying for a license;
3. Has been previously denied a license under this part;
4. Was a licensed medical marijuana center, optional premises cultivation operation or medical marijuana infused products manufacturing business and the license was revoked, unless, in the case of a medical marijuana business license, the Local Licensing Authority determines that the licensee was not responsible for the misconduct underlying the revocation;
5. Has been convicted of operating without a license under this part or performing any act for which a license is required under this part.

C. Any applicant aggrieved by the decision of the Local Licensing Authority may appeal the decision to deny or condition a license to the hearing officer in accord with the Local Licensing Authority's rules and regulations. (Ord. 11-32)

2.3.108: SUSPENSION OR REVOCATION; HEARINGS; DECISION:

A. Suspension or revocation proceedings may be based on a violation of State statutes, City Code, or State or local rules and regulations, any of the terms, provisions or requirements

imposed as a condition of issuance of the license, or upon the discovery of information that the licensee has made a wilful misrepresentation in applying for and obtaining a license, or that the licensee is a person prohibited as a licensee pursuant to Colorado Revised Statutes section 12-43.3-307, provided that a public hearing be granted at which the licensee shall be afforded an opportunity to be heard, present evidence, cross examine witnesses, and offer evidence in defense of any violations.

B. The hearing officer, upon the filing of a notice and order to show cause by the City, and after a hearing on the matter, shall have the power to suspend, revoke or deny renewal of any license issued pursuant to this article for any violation by the licensee, its agents, servants or employees. The power to summarily suspend a license exists only in the hearing officer.

C. Hearing procedures are to be in accord with the procedures contained in this section and article 1, part 8 of this chapter, as supplemented by state and local medical marijuana business licensing rules and regulations. The following procedures apply to suspension or revocation proceedings initiated against medical marijuana business licensees:

1. Following an investigation and upon determination that there is probable cause to believe that one or more of the grounds specified in subsection A of this section exist, the Local Licensing Authority may issue an order to show cause and notice of hearing to any person or business licensed pursuant to this article.

2. The order to show cause and notice of hearing shall be served by certified mail to the licensee at the address contained on the application or license, or by personal service.

3. The hearing officer shall have power to require an oath and to issue subpoenas. Compliance with any subpoena issued may be enforced by application of the hearing officer to the Municipal Court of the City, where enforcement may be in the same manner as contempt of court is enforced.

4. A record of the proceedings before the hearing officer shall be electronically recorded.

D. Appeals from the decisions of the hearing officer shall be to the courts of Colorado in accord with

the Colorado Rules of Civil Procedure as now existing or as amended. The action of the hearing officer shall constitute final agency action of the Local Licensing Authority for all purposes under the applicable State statutes, City Code and State and local rules and regulations. (Ord. 11-32)

who has not been granted a license, or by a licensee after suspension or revocation of a license may result in criminal prosecution by the appropriate authorities.

- D. It shall be unlawful for any person to operate a retail marijuana establishment within the City of Colorado Springs. (Ord. 11-32; Ord. 13-47)

2.3.109: UNLAWFUL ACTS:

- A. It shall be unlawful for any person licensed pursuant to this article to:

1. Make a wilful misrepresentation in applying for a license.

2. Fail to surrender to the Local Licensing Authority the license when required.

3. Fail to permit inspection/examination of books and records as required by law.

4. Consume or permit the consumption of medical marijuana in a licensed premises.

5. Fail to designate areas of ingress and egress for limited access areas and post signs in conspicuous locations as required by State law.

6. Fail to report a transfer or change in ownership.

7. Fail to report the name of or a change in managers as required by State law.

8. Display any signs that are inconsistent with the City or State law or regulations.

9. Use advertising material that is misleading, deceptive, or false.

10. For medical marijuana center licensees, to fail to maintain possession of a storefront from which the business is operated.

11. Operate a retail marijuana establishment within the City of Colorado Springs.

- B. A violation of any provision set forth in subsection A of this section may result in initiation of suspension or revocation proceedings.

- C. A violation of any provision set forth in subsection A of this section, or cultivation, possession or sale of medical marijuana by an applicant

GENERAL LICENSING CODE OF THE CITY OF COLORADO SPRINGS

CHAPTER 2 - BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION

ARTICLE 1 - GENERAL BUSINESS LICENSE PROVISIONS

PART 1 - TITLE, PURPOSE AND DEFINITIONS

2.1.101: TITLE:

Articles 1 through 4 of this chapter shall be known and may be cited as the *GENERAL LICENSING CODE OF THE CITY OF COLORADO SPRINGS* and shall be liberally construed so its true meaning and intent may be carried out. (Ord. 97-160; Ord. 01-42)

2.1.102: PURPOSE:

The purpose of this General Licensing Code is to provide a uniform procedure for the issuance, denial, renewal, suspension and revocation of regulatory and other business licenses issued by the City. The provisions of this General Licensing Code shall apply to all licenses except those issued pursuant to the City Liquor Code or City Tax Code. (Ord. 97-160; Ord. 01-42)

2.1.103: DEFINITIONS:

The following terms, as used in this General Licensing Code, shall have the meanings designated below, unless the context specifically indicates otherwise or unless the meaning is excluded by express provision:

APPLICANT: The person(s) or business submitting a business license application to the City Clerk's Office.

BOOKS: All business-related financial data.

BUSINESS: Includes all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the City or anywhere else within its jurisdiction.

CHIEF OF POLICE: The Chief of Police of the City of Colorado Springs or the Chief's designated representative.

DEPUTY LICENSING OFFICER: The Deputy City Clerk or another person designated by the City Clerk to perform licensing functions.

INSIGNIA: Any tag, plate, badge, decal, emblem, sticker or any other kind of device which may be required in connection with any license.

LICENSE: An official grant of permission to engage in a particular business within the City limits, evidenced by a City-issued form, license, insignia or tag.

LICENSEE: The person(s) or business to whom a license is granted.

LICENSING OFFICER: The City Clerk authorized by this City Code to act on behalf of the City Clerk's Office in all matters relating to licensing except as otherwise provided.

PERSON: Includes individual, corporation, business trust, estate, trust, partnership, association, sole proprietorship or any other legal entity.

PREMISES: Includes all lands, structures, places, equipment and appurtenances connected to or used in any business; and also any personal property which is either affixed to, or is otherwise used in connection with business conducted on the premises.

PRINCIPAL: Any person who possesses controlling authority, active management, supervision or control of the applicant, business or license, or who employs agents subject to the principal's general control and instruction.

RECORDS: Includes, but is not limited to, the history of corporate or partnership status, trade name registration with the Colorado Department of Revenue, employee records, employee schedules, contracts for services and purchase orders. (Ord. 97-160; Ord. 01-42)

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PART 2 - DEPUTY LICENSING OFFICER

2.1.201: POWERS:

Except as otherwise provided, the Deputy Licensing Officer shall have full power to grant, deny, renew, investigate, summarily suspend, issue cease and desist orders, and initiate suspension or revocation proceedings provided in this General Licensing Code, subject always to appeal to the Licensing Officer. (Ord. 97-160; Ord. 01-42)

2.1.202: DUTIES AND FUNCTIONS:

The Deputy Licensing Officer shall administer and enforce this General Licensing Code, and shall:

- A. Make Rules: Promulgate and enforce all reasonable rules and regulations necessary to operate and enforce this General Licensing Code.
- B. Adopt Forms: Adopt all forms necessary to operate and enforce this General Licensing Code.
- C. Require Affidavits: Require applicants to submit all affidavits and oaths necessary to administer this General Licensing Code.
- D. Investigate: Investigate or cause to be investigated the qualifications or eligibility of any applicant for a license.

E. Examine Records: Examine the books and records of any applicant or licensee when necessary to verify license information or to administer and enforce this General Licensing Code.

F. Administer Oaths; Issue Subpoenas: In conducting any investigation or hearing, the Licensing and Deputy Licensing Officers are empowered to administer oaths and issue subpoenas. Compliance with any subpoena issued by the Licensing or Deputy Licensing Officer may be enforced by application to the Municipal Court of the City, where enforcement may be in the same manner as contempt of court. (Ord. 97-160; Ord. 01-42)

2.1.203: RECORDS REQUIRED:

The City Clerk's Office shall keep a record of all licenses issued, setting forth the name of every licensee, the place of business licensed, if any, the residence address of the licensee, and the residence address of each of the individual members, directors or officers of the licensee, the type of license issued, and any other information deemed pertinent by the Licensing or Deputy Licensing Officer. All records maintained by the Licensing or Deputy Licensing Officer pursuant to this General Licensing Code shall be subject to the provisions of the Colorado Open Records Act. (Ord. 97-160; Ord. 01-42)

GENERAL LICENSING CODE OF THE CITY OF COLORADO SPRINGS

CHAPTER 2 - BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION

PART 3 - LICENSE REQUIREMENTS

2.1.301: LICENSE REQUIRED:

It shall be unlawful for any person, either directly or indirectly, personally or through an agent or employee, to conduct any business, or to use in connection with the business any vehicle, premises, machine or device, in whole or in part, for which a license is required by this General Licensing Code without first obtaining a license. (Ord. 97-160; Ord. 01-42)

2.1.302: ONE ACT CONSTITUTES DOING BUSINESS:

For the purposes of this General Licensing Code, one act of any of the following activities within the City limits constitutes doing business:

- A. Soliciting business or selling any goods or services for which a license is required;
- B. Acquiring or using any vehicle or any premises in the City for purposes requiring a license. (Ord. 97-160; Ord. 01-42)

2.1.303: BOND REQUIREMENTS:

Whenever the terms of the provisions applicable to a particular license require the posting of a bond, no license shall be issued, or if issued no license shall be effective, until the licensee or applicant furnishes a good and sufficient original bond certificate, with surety to be approved by the City Attorney, in the prescribed sum, conditioned upon the faithful observance of all the terms of the provisions pertaining to the business licensed. Bonds shall also be conditioned upon payment of all fines, penalties and costs that may be adjudged against the licensee for violation of the provisions pertaining to the license. (Ord. 97-160; Ord. 01-42)

2.1.304: AGENTS RESPONSIBLE:

- A. Managing Agent: Any person who accounts on behalf of the principal or who possesses controlling authority, actively manages or supervises the business or license. The managing agent is responsible for the licensee's compliance with this General Licensing Code. The licensee shall immediately notify the City Clerk's Office of any change in managing agent.
- B. Agent For Process: Each licensee shall designate a resident agent in the City upon whom any process, notice or order required or permitted under this General Licensing Code may be served. The licensee shall immediately notify the City Clerk's Office of any change in the agent for process.
- C. Same Person: The managing agent and the resident agent for process may be the same person.
- D. Failure To Appoint Agent: Failure to appoint or to maintain an agent shall be grounds for issuance of a cease and desist order. (Ord. 97-160; Ord. 01-42)

2.1.305: DUTY TO MAINTAIN BOOKS AND RECORDS:

It shall be unlawful for the licensee to fail to maintain books and records related to the licensee's business in a form and manner capable of being reviewed or inspected. Books and records required to be kept and maintained by this article shall be in addition to any records required to be kept and maintained by the provisions specific to the license. Books and records shall be kept and maintained for a period of three (3) years. (Ord. 01-42)

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CHAPTER 2 - BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION

PART 4 - APPLICATIONS FOR LICENSE

2.1.401: QUALIFICATIONS OF APPLICANTS:

Every applicant for a license or renewal of a license must meet the general standards and qualifications set out in this part.

A. Good Moral Character: Each applicant shall be of good moral character. In determining good moral character, the Deputy Licensing Officer must consider:

1. License History: The license history of the applicant; whether in previously conducting business in this or another locality, any license has been revoked or suspended, the reasons for any administrative action and the demeanor of the applicant subsequent to the action. The Deputy Licensing Officer shall also consider whether, when previously conducting business, the applicant engaged in false or misleading advertising, falsified any business records or participated in any unlawful business practice.

2. General Personal History: Each applicant shall have a satisfactory general personal history. The Deputy Licensing Officer shall investigate other facts relevant to the general personal history of the applicant as necessary to fairly determine the applicant's qualifications and ability to conduct the business in a lawful manner. Relevant facts may include, but not be limited to, the applicant's criminal history, knowing or wilful deception in any phase of the application or licensing process, fraud in obtaining any license or registration, addiction to alcohol, habit-forming drugs or controlled substances or complaints received by the City Clerk's Office.

B. No Obligations To City: Each applicant shall not be indebted or obligated in any manner to the City.

C. Compliance With All City Regulations: Each applicant shall, to the extent applicable, present certificates furnished by the appropriate City departments to the effect

that the proposed use of any premises is in compliance with all applicable City regulations including, but not limited to, Zoning, Building and Fire Codes. (Ord. 97-160; Ord. 01-42)

2.1.402: FORM OF APPLICATIONS; SWORN STATEMENTS:

All applications shall be written statements upon forms provided by the City Clerk's Office. The truthfulness of all statements upon the forms shall be sworn to by the applicant before a notary public or other oath-taking official. In the event any person knowingly makes any false statement or omits any pertinent information on any application, that act or omission shall be grounds for denial of the license or for suspension or revocation of any license issued upon the basis of the false statement, and shall be grounds for prosecution for perjury. (Ord. 97-160; Ord. 01-42)

2.1.403: CONTENTS OF APPLICATIONS:

The application for every license required by and issued under the authority of the City shall contain:

A. The name of each applicant desiring the license, a copy of the applicant's registration with the Colorado Department of Revenue and a copy of the corporate form from the Secretary of State as applicable;

B. The residence address of the applicant, if an individual, of each of the individual members of the entity, if a partnership, corporation, business trust, estate, trust or association, and of each of the directing officers, if a corporation;

C. The type of license desired, stating the business to be performed, practiced or carried on;

D. The local street address, if any, where the business is to be conducted; the principal

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place of business if other than the local street address;

sought or any other relevant information required by the City Clerk's Office; and

E. The year for which the license is sought;

G. A notarized affirmation of the truthfulness of the applicant's statements contained in the application. The Deputy Licensing Officer may also require proof of the applicant's identity. (Ord. 97-160; Ord. 01-42)

F. Any other relevant information required by the provisions pertaining to the particular license

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PART 5 - LICENSE FEES

2.1.501: APPLICATION FEES; REFUND:

All license applications shall be accompanied by an application fee including any applicable exam fee and a background check fee when applicable. The City Clerk's Office shall not accept a license application unless accompanied by the required fees.

Application fees and background check fees are charged to defray the expense of processing license applications, and shall not be refunded to the applicant if the license is denied, the application is withdrawn, or for any other reason after the application is filed and the application fee paid. Application fees are separate and distinct from license fees and may not be applied to or deducted from a required license fee. (Ord. 97-160; Ord. 01-42)

2.1.502: PAYMENT OF LICENSE FEES; REFUND:

The license fee and application fee for every license issued shall be payable in advance and shall accompany the application. License fees shall be payable to the City and the City Clerk's Office shall endorse payment on the application and issue a receipt. The City Clerk's Office shall not accept an application for a license unless accompanied by the required application and license fee. In the event the Deputy Licensing Officer denies the application for the license, the license fee tendered shall be refunded unless otherwise specified. The Deputy Licensing Officer shall initiate the refund procedure. (Ord. 97-160; Ord. 01-42)

2.1.503: PARTIAL PAYMENT; REPLACEMENT LICENSES:

- A. The City Clerk's Office is prohibited from receiving any partial payment of an application fee or of a license fee.
- B. Whenever a license, permit, insignia or identification card needs to be replaced, the City Clerk's Office is hereby authorized to duplicate the license, permit, insignia or

identification card upon payment of a replacement fee per document. The Deputy Licensing Officer is hereby authorized to promulgate regulations pertaining to replacement documents. (Ord. 97-160; Ord. 01-42)

2.1.504: PRORATING FEES:

Fees for licenses shall not be rebated or prorated for any reason except as provided in this General Licensing Code. (Ord. 97-160; Ord. 01-42)

2.1.505: RECEIPTS FOR PAYMENT OF FEES:

The City Clerk's Office shall issue a receipt to the applicant for money paid in advance. No receipt shall be construed as constituting approval of the Deputy Licensing Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this General Licensing Code. (Ord. 97-160; Ord. 01-42)

2.1.506: UNPAID FEE CONSTITUTES DEBT:

The amount of any unpaid fee, the payment of which is required by this General Licensing Code, shall constitute a debt due the City. In addition to other legally available remedies, the Deputy Licensing Officer may request that the City Attorney institute a civil suit in the name of the City to recover any unpaid fee. This remedy shall be cumulative and in addition to all other remedies, and shall not bar or abate a prosecution in Municipal Court for any violation of this General Licensing Code, nor bar or abate any action to suspend or revoke a license for nonpayment of the appropriate license fee. (Ord. 97-160; Ord. 01-42)

2.1.507: LICENSE FEES ENUMERATED: (Ord. 97-160; Ord. 97-211; Ord. 98-50; Ord. 98-71; Ord. 98-153; Ord. 98-168; Ord. 98-169; Ord. 98-171; Ord. 98-195; Ord. 98-222; Ord. 98-223; Ord. 98-224; Ord. 99-90; Ord. 01-42; Ord. 01-107; Ord. 01-130; Rep. by Ord. 01-148)

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PART 6 - ISSUANCE AND CONDITIONS OF LICENSE

2.1.601: ISSUANCE OR DENIAL:

A. Except as otherwise provided in this General Licensing Code, the City Clerk's Office shall issue a license to an applicant if finding after investigation:

1. All prerequisite conditions imposed upon the applicant by the provisions pertaining to the particular license have been met including, but not limited to, the qualification standards set forth in part 4 of this article;

2. The application fee has been paid;

3. The license fee has been paid;

4. The required bond has been posted;

5. The required insurance has been obtained and/or maintained;

6. The business premises conform to the requirements of applicable building, fire, safety and zoning regulations; and

7. All other specific requirements of the particular license have been met.

B. If the City Clerk's Office finds the criteria in subsection A of this section have not been met, the application shall be denied. The Deputy Licensing Officer shall notify the applicant of the denial by registered or certified mail, along with a copy of the denial and the reasons supporting the denial.

C. Any applicant may appeal the Deputy Licensing Officer's denial of the application to the Licensing Officer by filing a written appeal, stating the grounds for appeal, with the City Clerk's Office within ten (10) days following the date of denial of the application.

D. In the event an appeal is filed, it shall be heard de novo and recorded electronically or otherwise at least ten (10) days after the

appeal is filed with the City Clerk's Office. If a postponement of this hearing is requested, the applicant must file a written request for continuance at the same time the appeal is filed. The Licensing Officer shall have the discretion to grant or deny the request for continuance. At the Deputy Licensing Officer's request, the City may be represented by a prosecuting attorney. At the hearing on the appeal, the Licensing Officer shall consider the evidence presented and either uphold the decision of the Deputy Licensing Officer and deny the license or overturn the decision of the Deputy Licensing Officer and grant the license. The Licensing Officer may impose appropriate conditions upon any license granted to protect the general health, safety and welfare. Failure to appeal in accord with this section shall be deemed a waiver of the right to appeal pursuant to CRCP 106 by virtue of a failure to exhaust administrative remedies. (Ord. 97-160; Ord. 01-42)

2.1.602: DISPLAY POSTING:

A. Every license issued by the City shall be posted during the period the license is valid. The license shall be posted in a conspicuous place and be visible from the principal entrance of the business. An expired license shall be removed.

B. It shall be the duty of the licensee to exhibit the license upon the request of any peace officer, the City Clerk's Office or another City official. (Ord. 97-160; Ord. 01-42)

2.1.603: DISPLAY INSIGNIA:

All business license insignias issued by the City shall be securely fastened in a visible and conspicuous manner as determined by the Deputy Licensing Officer. (Ord. 97-160; Ord. 01-42)

2.1.604: CHANGE OR TRANSFER OF LICENSE:

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A. Any change of principal, ownership, licensee or location of a licensed business or activity shall require a new application and license and payment of fees according to the provisions pertaining to the particular kind of application and license.

B. No license shall be transferred from one person to another or from one business premises to another. (Ord. 97-160; Ord. 01-42)

2.1.605: RENEWAL OF LICENSE:

A. At any time within thirty (30) days prior to the expiration of the current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees. Unless otherwise provided, if renewal application is made and no action or proceeding is pending against the licensee for suspension or revocation of the current license or licenses, the licensee may continue the business for the succeeding period unless or until the application for license renewal is denied.

B. In the event a suspension or revocation proceeding is pending when the licensee applies for renewal, the business may continue during the pendency of the proceeding, but the renewal application shall not be acted upon until the suspension or revocation proceeding has been completed.

C. Every renewal application shall be evaluated in accord with the requirements of section [2.1.601](#) of this part.

D. Whenever any renewal application and accompanying license fee payment is not

received on or before the expiration date of any license issued for the current license term, and the licensee continues to engage in the business for which the license was issued, an additional penalty of fifty percent (50%) of the amount of the license fee shall be imposed and collected. The Deputy Licensing Officer shall be authorized to waive or adjust any or all of this penalty and additional fee whenever the Deputy Licensing Officer determines the delinquency is not the fault of the licensee and to collect or require payment would be an injustice.

E. The failure of a licensee to exercise the privilege of license renewal for a period of thirty (30) days beyond the expiration of the license shall be prima facie evidence that the licensee does not intend to renew the license, and that the license has expired and is no longer valid. No expired license shall be renewed. (Ord. 97-160; Ord. 01-42)

2.1.606: SURRENDER OF LICENSE:

A licensee may surrender the license by delivering it to the City Clerk's Office with or without a written statement of its surrender. Surrender of a license shall not affect the civil or criminal liability of a licensee for acts committed prior to surrender, nor entitle the licensee to a refund of the license fee for any remaining portion of the licensing period. A surrendered license shall be deemed to be expired and the licensee shall immediately cease exercising the privileges of the license. (Ord. 97-160; Ord. 01-42)

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PART 7 - INSPECTIONS AND INVESTIGATIONS

2.1.701: APPROVAL OR INSPECTION OF NEW LICENSES:

The applicant for a license pursuant to this General Licensing Code must submit the application to any officer or agency of the City whose approval or inspection is required for the license. The City officer or agency shall perform the function by law or as requested by the City Clerk's Office and shall return the application to the Deputy Licensing Officer with an endorsement of approval or disapproval. An application which is disapproved by a City officer or agency shall be accompanied by a written statement of the grounds for disapproval. (Ord. 97-160; Ord. 01-42)

2.1.702: APPROVAL OR INSPECTION OF RENEWAL LICENSES:

Any approval or inspection required for renewal of a license, or deemed necessary in the Deputy Licensing Officer's discretion, shall be conducted by the appropriate City officer or agency. A renewal application which is disapproved by a City officer or agency shall be accompanied by a written statement of the grounds for disapproval. The Deputy Licensing Officer shall renew or

deny the renewal application in accord with the provisions pertaining to the particular license and this article. (Ord. 97-160; Ord. 01-42)

2.1.703: AUTHORITY OF INSPECTORS:

All persons authorized to inspect licensed premises and businesses shall have the authority to enter and inspect, with or without a search warrant, at all reasonable times, and in a reasonable manner, the following:

- A. Premises for which a license is required.
- B. Premises for which a license was issued and which, at the time of inspection, are operating under the license.
- C. Premises for which a license has been revoked or suspended.
- D. Books and records required to be kept by this General Licensing Code. (Ord. 97-160; Ord. 01-42)

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PART 8 - SUSPENSION AND REVOCATION PROCEDURES

2.1.801: AUTHORITY:

The City Council hereby finds that the suspension or revocation of a license may be necessary in the public interest when a licensee fails to operate the business or exercise the privileges associated with the license in accord with the provisions of this General Licensing Code. The Deputy Licensing Officer is authorized to initiate suspension or revocation proceedings against a licensee when these circumstances arise. The Licensing Officer is authorized to conduct suspension or revocation hearings in accord with the provisions of this part. (Ord. 97-160; Ord. 01-42)

2.1.802: GROUNDS FOR SUSPENSION OR REVOCATION:

The grounds for initiating suspension or revocation proceedings are as follows:

- A. The licensee failed to file any certificates of insurance, bonds, documents, reports or other information required pursuant to this General Licensing Code or as may be reasonably required by the City Clerk's Office or other City officer or agency;
- B. The licensee or any agent or employee of the licensee violated any provision of this General Licensing Code pertaining to the license or of any regulation or order relating to the license lawfully made under the authority of this General Licensing Code;
- C. The licensee or any agent or employee of the licensee violated any law of the United States, of the State of Colorado or of the City of Colorado Springs when the violation occurred on the licensed premises, or relates to the conduct or activity of any business required to be licensed by this General Licensing Code. (Ord. 97-160; Ord. 01-42)

2.1.803: ORDER TO SHOW CAUSE:

The Deputy Licensing Officer shall initiate suspension or revocation proceedings by issuing the licensee an order to show cause why the license should not be suspended or revoked.

- A. The order to show cause shall give the licensee notice of the alleged grounds for suspension or revocation and of the date, time and place of the hearing on the alleged violations.
- B. The order to show cause shall be served upon the licensee not less than ten (10) days prior to the scheduled hearing date, including Saturdays, Sundays and City holidays. Service may be accomplished by hand delivery to the licensee, the managing agent or the agent for process or by first-class certified mail, postage prepaid, to the last address furnished to the City Clerk's Office by the licensee.
- C. If the licensee has a permanent business location, the Deputy Licensing Officer may also affix a copy of the order to show cause to the principal entrance of the licensed premises which is deemed to be the principal place of business or the main office, or may affix a copy to a prominent structure on the licensed premises. (Ord. 97-160; Ord. 01-42)

2.1.804: HEARING PROCEDURE:

- A. Public Hearing: A public hearing shall be held upon the allegations contained in the order to show cause. The Licensing Officer shall act as hearing officer, or may designate another person to conduct the hearing.
- B. Representation: The City shall be represented by a prosecuting attorney from the Office of the City Attorney. The licensee may be represented by counsel or may proceed pro se. The licensee will be given an opportunity to be heard, present evidence, cross-examine witnesses and offer evidence in mitigation of any alleged violations.

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- C. City Attorney: At the Licensing Officer's discretion, a corporate attorney from the Office of the City Attorney may advise the Licensing Officer regarding any procedural questions during a suspension or revocation hearing. Under no circumstances will the same corporate attorney act as a prosecuting attorney during any suspension or revocation hearing.
- D. Administrative Hearing: As a suspension or revocation hearing is an administrative hearing, the Licensing Officer shall not be bound by the Colorado Rules of Civil Procedure or the Colorado Rules of Evidence. The Licensing Officer may consider hearsay evidence, or any other evidence reasonably calculated to assist the Licensing Officer in rendering a decision, and give it whatever weight the licensing officer deems appropriate. Depending upon the nature or complexity of the suspension or revocation hearing, the Licensing Officer may request that the City and licensee submit, prior to the hearing, any documentary or demonstrative evidence which they plan to present during the hearing.
- E. Powers Of Licensing Officer: The Licensing Officer shall have the power to administer oaths, issue subpoenas, grant continuances, limit evidence or testimony which is repetitive and determine the order in which evidence will be presented.
- F. Evidence: All evidence presented to the Licensing Officer during a suspension or revocation hearing shall be recorded electronically or otherwise. The Licensing Officer shall mark any documentary or demonstrative evidence received and shall maintain this tangible evidence in a separate file at the conclusion of the hearing. Documentary or demonstrative evidence received by the Licensing Officer during any suspension or revocation hearing shall not be released by the Licensing Officer except for purposes of appeal. If no appeal is filed, the Licensing Officer may dispose of documentary or demonstrative evidence not less than ninety (90) days after the date of the hearing.
- G. Continuances: If requested prior to the scheduled suspension or revocation hearing date, the City and the licensee shall each be granted one continuance of the hearing not to exceed sixty (60) days. The Licensing Officer shall use discretion in granting additional continuances. (Ord. 97-160; Ord. 01-42)
- 2.1.805: DECISION:**
- A. Findings: At the conclusion of the evidence, the Licensing Officer shall make written findings of fact and conclusions regarding the suspension or revocation of the license. The Licensing Officer may, at the conclusion of the hearing, take the matter under advisement and issue the written findings of fact and conclusions within thirty (30) days.
- B. Determine Actions: The findings of fact and conclusions shall summarize the witnesses and evidence presented at the hearing and state whether there was competent evidence in the record to determine that the allegations contained in the show cause were true. If finding the allegations to be true, the Licensing Officer shall determine whether suspension or revocation of the license is appropriate. When ordering suspension or revocation, the Licensing Officer shall consider any mitigating or aggravating evidence presented at the hearing.
- C. Suspension:
1. The Licensing Officer may suspend a license issued pursuant to this General Licensing Code for no more than six (6) months.
 2. The Licensing Officer may impose an active suspension or a suspension held in abeyance, or a combination of both, so long as the total number of days the license is suspended does not exceed six (6) months.

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3. A suspension will be held in abeyance so long as the licensee meets all conditions imposed by the Licensing Officer. Any subsequent violation will revoke the suspension held in abeyance. The licensee would then serve an active suspension equal in time to the suspension held in abeyance, as well as any other penalty imposed as a result of the subsequent violation and the subsequent suspension or revocation hearing.

4. If the Licensing Officer imposes an active suspension of fifteen (15) days or less, the licensee may request a fine in lieu of suspension pursuant to section [2.1.806](#) of this part.

5. A suspended license may be renewed at the end of the license period pursuant to section [2.1.605](#) of this article. Renewal of a suspended license will be subject to any remaining active suspension or suspension held in abeyance.

6. Suspension shall become effective immediately upon issuance of the Licensing Officer's decision, unless the decision states otherwise.

D. Revocation:

1. The Licensing Officer may revoke a license if the findings of fact and conclusions indicate any of the following:

- a. The licensee has no regard for the privileges and responsibilities granted by the license;
- b. The licensee cannot operate the licensed business in a lawful manner;
- c. The licensee's conduct rises to the level of a threat to the health, safety or welfare of the public;
- d. A period of suspension is insufficient to correct the licensee's behavior.

2. Revocation shall become effective immediately upon issuance of the Licensing Officer's decision.

3. A revoked license may not be renewed. A licensee who has had a license revoked may not reapply for any new business license for a period of two (2) years from the date of the Licensing Officer's decision.

4. The Licensing Officer shall serve a copy of the findings of fact and conclusions, and any order of suspension or revocation upon the licensee. Service shall be accomplished in the same manner as service of the order to show cause. If the licensee has a permanent business location, the Licensing Officer may also affix a copy of the findings of fact and conclusions to the principal entrance of the licensed premises, which is deemed to be the principal place of business or the main office, or may affix a copy to a prominent structure on the licensed premises.

E. Effective Date: Upon the effective date of suspension or revocation of any license required for a business or activity, the licensee shall cease and desist from further operation of the business or activity. (Ord. 97-160; Ord. 01-42)

2.1.806: FINE IN LIEU OF SUSPENSION:

A. Fine Allowed: To encourage compliance with the provisions of this General Licensing Code and to resolve compliance issues at the administrative level, City Council hereby finds that it is prudent to permit a licensee to choose to pay a fine in lieu of suspension.

B. Eligibility: A licensee who meets the following qualifications may choose to pay a fine in lieu of serving an active suspension:

1. The licensee has not been the subject of an order to show cause or a suspension or revocation hearing within the previous twelve (12) month period; and

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2. The licensee makes a written request to the Licensing Officer.

C. Request:

1. The licensee may make written request to the Licensing Officer for payment of a fine in lieu of suspension if, after issuance of an order to show cause and at least ten (10) days before commencement of a suspension or revocation hearing, the licensee admits the alleged violations contained in the order to show cause. The licensee may also include in this written request any mitigating factors the Licensing Officer should consider when calculating the fine. After receiving the written request, the Licensing Officer shall vacate the scheduled hearing date and calculate the fine.

2. The licensee may make written request to the Licensing Officer for payment of a fine in lieu of suspension if, after the conclusion of a suspension or revocation hearing, the Licensing Officer finds and determines that the license should be suspended and the Licensing Officer imposes an active suspension of fifteen (15) days or less. Any suspension held in abeyance as a result of a suspension or revocation hearing shall not be affected by a fine in lieu of active suspension and shall remain suspended in abeyance for a period of one year from the date of the Licensing Officer's decision. The licensee's written request for payment of a fine in lieu must be filed with the Licensing Officer within ten (10) days of the date of the Licensing Officer's decision following a suspension or revocation hearing.

D. Calculation:

1. The Licensing Officer may impose a fine in lieu of not less than five hundred dollars (\$500.00) and not more than ten thousand dollars (\$10,000.00).

2. The Licensing Officer shall consider the following factors when calculating the amount of the fine in lieu:

a. The type of business;

b. The length of time the licensee has held the license;

c. The nature of the violation(s);

d. Mitigating and aggravating circumstances presented by the licensee or the City.

e. Within ten (10) days of the licensee's written request for payment of a fine in lieu, the Licensing Officer may request and the licensee must provide any books or records reasonably necessary for the purpose of calculating the fine. Within thirty (30) days of the Licensing Officer's receipt of these books or records, the Licensing Officer must determine the fine in lieu and shall serve notice upon the licensee in writing of the amount and the factors considered when calculating the amount. Service may be accomplished by either hand delivery or by first-class certified mail, postage prepaid, to the last address furnished to the Licensing Officer by the licensee.

3. The licensee shall pay the fine in lieu in accord with the schedule established by the Licensing Officer.

E. Appeals: By requesting a fine in lieu of suspension, the licensee expressly waives the right to an appeal on the merits of the order to show cause or on the Licensing Officer's decision after the conclusion of a suspension or revocation hearing. The licensee retains the right to appeal the Licensing Officer's calculation of the fine in lieu or the schedule of payment. An appeal of a fine in lieu shall follow the procedure set forth in section [2.1.807](#) of this part. (Ord. 97-160; Ord. 01-42)

2.1.807: APPEALS:

The decision or determination of the Licensing Officer shall in all cases be final and conclusive. A decision or determination of the Licensing

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Officer may only be reviewed by the District Court pursuant to CRCP 106(a)(4). There shall be no stay of execution of the Licensing Officer's decision pending decision by the District Court, except by court order. In the event the District Court remands the matter back to the Licensing Officer for additional proceedings, there shall be no reinstatement of licensed privileges pending additional proceedings, except by court order. (Ord. 97-160; Ord. 01-42)

2.1.808: CEASE AND DESIST ORDER:

A. In addition to any other consistent provision in this General Licensing Code, a business will be deemed to be unlicensed if it possesses any of the following characteristics:

1. The business directly or indirectly conducts any activity or enterprise, or uses any vehicle, premises, machine or device, in whole or in part, for which a license is required without first obtaining the required license;
2. The business operates while any required insurance coverage has lapsed or been canceled;
3. The business operates while any required bond is expired;
4. The business operates without any required certification or approval;
5. The business operates after failing to renew a business license within thirty (30) days after the end of the license period; or
6. The business fails to appoint or maintain a managing agent or an agent for service of process; or fails to immediately notify the Deputy Licensing Officer of any change in the managing agent or agent for service of process.

B. If a business is deemed unlicensed, the Deputy Licensing Officer may issue a cease and desist order.

1. Contents: The cease and desist order shall be in writing and shall state that the business is unlicensed, describe the facts from which this conclusion was reached, cite the ordinance allegedly violated and order the business immediately to cease its unlicensed operation.

2. Notice: The Deputy Licensing Officer shall serve the cease and desist order upon the business by posting the order on the premises, by personally serving the order upon the owner or manager of the business, by mailing the order via first-class certified mail, or by a combination of these methods.

3. Action Required: Upon receipt of the notice and order, the unlicensed business must cease all operations immediately and cannot resume operations until properly licensing the business in accord with the provisions of this General Licensing Code.

4. Remedy: The Deputy Licensing Officer may seek any remedy available in law or equity if the unlicensed business fails to comply with a cease and desist order within seventy two (72) hours of the issuance of a cease and desist order. If an unlicensed business receives two (2) or more cease and desist orders within a six (6) month period, the Deputy Licensing Officer, in addition to any other remedies:

- a. May prohibit the unlicensed business or its owner from applying for or being granted the required license for a two (2) year period; or
- b. Shall initiate suspension or revocation proceedings against a licensee possessing an otherwise valid business license. (Ord. 97-160; Ord. 01-42)

2.1.809: SUMMARY SUSPENSION:

A. Policy: The City Council hereby finds that it is in the interest of the City to take action against those licensees who violate any Federal, State or local offenses pertaining to weapons, firearms, controlled substances,

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unlawful sexual behavior, or offenses relating to morals, while exercising the privileges of the license or while on the licensed premises. This type of conduct, which rises to the level of an immediate threat to the health, safety or welfare of the public, constitutes an emergency and it is appropriate for the Licensing Officer to summarily suspend the licensee's license.

B. Effect: Upon a finding that the licensee has violated the policy established in subsection A of this section, the Deputy Licensing Officer shall issue a notice of summary suspension and shall schedule a de novo hearing before the Licensing Officer to determine whether to suspend or revoke the license. The summary suspension hearing shall not be held more than thirty (30) days after the issuance of the notice. If the licensee waives this time limit in writing, the hearing shall be held no more than sixty (60) days after issuance of the notice. At the summary suspension hearing, the burden shall be upon the licensee to show cause why the notice of summary suspension should not be made a final order of suspension or revocation. The Licensing Officer's decision to suspend or revoke the license shall be final, in accord with section [2.1.807](#) of this part.

C. Notice Of Summary Suspension:

1. Contents: The notice of summary suspension shall be in writing and shall state the grounds for its issuance, cite this section as authority for issuing the notice, order the licensee to cease operations immediately and set a date for a summary suspension hearing before the Licensing Officer.

2. Service: The Deputy Licensing Officer shall serve a written notice of summary suspension upon the licensee by posting the notice on the premises, by personally serving the notice upon the owner or manager of the business, by mailing the notice via first-class, certified U.S. mail, or by a combination of these methods. (Ord. 97-160; Ord. 01-42)

1.810: WARNING LETTER; WAIVER AND ESTOPPEL AGREEMENT:

A. Issuance: The Deputy Licensing Officer shall have the authority to issue a warning letter to any licensee who violates any provision of this General Licensing Code. A warning letter may be issued if the following conditions are met:

1. The Deputy Licensing Officer finds, in an exercise of discretion, that the licensee has committed a minor violation and that the licensee is likely to comply with the provisions of this General Licensing Code upon the issuance of a warning letter;
2. No more than sixty (60) days have passed since the Deputy Licensing Officer first had knowledge of the minor violation;
3. The licensee has not been the subject of suspension or revocation proceedings prior to the date of the minor violation or received another warning letter for any violation within two (2) years of the date of the minor violation.

B. Description; Action: A warning letter shall describe the minor violation and shall inform the licensee that no further administrative action will be taken against the licensee so long as the licensee has no other violations of any provision of this General Licensing Code for a period of one year from the date of the warning letter. If the licensee commits another violation within the one year period, the Deputy Licensing Officer shall retain the right to initiate suspension or revocation proceedings against the licensee.

C. Waiver And Estoppel: If a warning letter sets forth a one year period extending beyond the expiration of the current license, the Deputy Licensing Officer may, as a condition of license renewal, require the licensee to enter into a waiver and estoppel agreement. The waiver and estoppel agreement shall set forth the following:

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1. The licensee's name and business address.
2. The date of the warning letter, a description of the minor violation and the expiration date of the one year period.
3. An affirmative reservation of the Deputy Licensing Officer's right to take administrative action or initiate suspension or revocation proceedings against the license if the licensee commits any other violation of this General Licensing Code prior to the expiration of the warning letter's one year period.
4. An affirmative waiver of the licensee's right to argue that the Deputy Licensing Officer is estopped from taking administrative action or initiating suspension or revocation proceedings based upon violations that occurred prior to the current renewal period. (Ord. 97-160; Ord. 01-42)

Medical Marijuana Land Use Regulations

City of Colorado Springs

(Selected sections – always verify current code and regulations with Land Use at 719-385-5905 or www.springsgov.com)

7.2.302: DEFINITIONS OF USE TYPES:

C. Commercial Use Types: Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

22. MEDICAL MARIJUANA FACILITY (MMJ Facility): An establishment licensed by the City of Colorado Springs and the State of Colorado for the growth, cultivation, acquisition, manufacture, storage, dispensing and/or sale of medical marijuana or medical marijuana infused products. The following are considered medical marijuana facility use types:

- a. Medical Marijuana Center (MMC): An establishment for the storage, dispensing and/or sale of medical marijuana or medical marijuana infused products.
- b. Medical Marijuana Infused Products Manufacturer (MMIPM): An establishment for the manufacture and storage of medical marijuana infused products.
- c. Optional Premises Cultivation Operation (OPCO): An establishment for the growth, cultivation, and storage of medical marijuana.

7.3.105: ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES:

P. Medical Marijuana Exception - Patient Or Primary Caregiver: A patient who is in possession of a Colorado State issued registry identification card may grow a maximum of six (6) plants and possess medical marijuana for their medical use only in accord with Colorado Constitution article XVIII, section 14. A person designated as the primary caregiver for no more than five (5) patients may grow and possess a maximum of six (6) medical marijuana plants per patient for their patients' medical use in accord with Colorado Constitution article XVIII, section 14. These activities are allowed as accessory uses in all residential zone districts or residential units so long as:

1. No medical marijuana is dispensed, except to registered patients;
2. No medical marijuana infused products are manufactured or sold;
3. No medical marijuana is cultivated outdoors;
4. No signs regarding medical marijuana are displayed; and
5. No more than one caregiver per dwelling unit is permitted⁶. (Ord. 94-107; Ord. 01-42; Ord. 02-98; Ord. 02-125; Ord. 02-153; Ord. 03-74; Ord. 03-127; Ord. 03-157; Ord. 06-161; Ord. 09-70; Ord. 09-80; Ord. 10-42; Ord. 10-107; Ord. 11-19)

7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES:

The following table designates uses allowed in the office, commercial, industrial, traditional neighborhood development and special purpose districts. Principal permitted uses are shown as P, conditional uses are shown as C (see also note 3 of table) and accessory uses are shown as A. All uses allowed in a specific PUD or FBZ zone district and related development standards shall be determined at the time of zone district establishment or change. The use and development of an individual site are subject to the standards of its determined zone, the applicable landscaping, parking, sign, and general site development standards listed in this Zoning Code. Uses not listed in the table may be allowed as principal permitted, conditional and accessory uses in any district where similar uses are allowed in conformance with this Zoning Code. The description of land use types listed in article 2, part 3 of this chapter shall be used to assist with the determination of land uses and categories.

PERMITTED, CONDITIONAL AND ACCESSORY USES
OFFICE, COMMERCIAL, INDUSTRIAL, TRADITIONAL NEIGHBORHOOD DEVELOPMENT, SPECIAL PURPOSE AND
FORM-BASED ZONE DISTRICTS^{1,3,5}

Use Types	OR	OC	PBC	C-5	C-6	PIP-1	PIP-2	M-1	M-2	PF	PK	PCR	APD	TND
Commercial use types:														
Medical marijuana facility:														
Medical marijuana center	7	7	P	P	P	A ⁶	A ⁶	A ⁶	A ⁶					
Medical marijuana infused product manufacturer	7	7	P	P	P	P	P	P	P					
Optional premises cultivation operation	7	7	P	P	P	P	P	P	P					

Notes:

1. Unless otherwise permitted by this Zoning Code, all uses permitted in a specific PUD zone district shall be determined at the time of zoning.
2. See section [7.4.603](#) of this chapter for additional CMRS information.
3. Development plan required for all conditional uses and when required per section [7.7.502](#) of this chapter.
4. See section [7.3.205](#) of this part for additional standards for specific land uses.
5. Unless otherwise permitted by this Zoning Code, all uses permitted in a specific FBZ zone district shall be determined at the time of zoning and described in the zone specific regulating plan.
6. In accord with subsection [7.3.205C](#), "Accessory Retail Sales And Services", of this part.
7. Refer to subsection [7.3.205K6](#) of this part for additional standards for MMJ facilities located within the OR and OC zone districts.

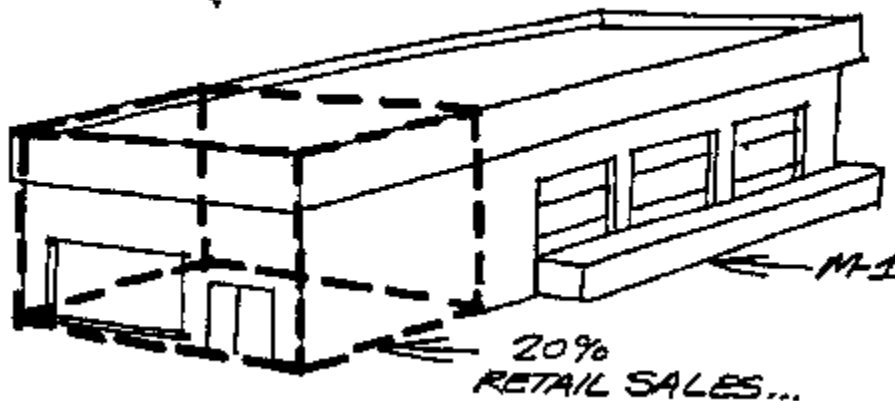
(Ord. 80-131; Ord. 81-102; Ord. 86-39; Ord. 86-117; Ord. 86-119; Ord. 90-108; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-173; Ord. 02-97; Ord. 02-125; Ord. 02-153; Ord. 03-74; Ord. 03-110; Ord. 03-157; Ord. 06-55; Ord. 06-162; Ord. 09-73; Ord. 09-88; Ord. 10-42; Ord. 10-107; Ord. 12-66)

7.3.205: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:

Individual standards designed to mitigate impacts apply to many uses allowed in the office, commercial, industrial, and special purpose zone districts. These standards are in addition to the development standards and the general site development standards contained in this Zoning Code. For development standards for residential uses which are also allowed in the office and commercial zone districts, use the residential standards listed under the R-5 zone in the table "Agricultural, Residential, Special Use And Traditional Neighborhood Development Zone District Development Standards", in section [7.3.104](#) of this article, and the descriptions in section [7.3.105](#) of this article.

- C. Accessory Retail Sales And Services: Retail sales and services are allowed in the PIP-1, PIP-2, M-1 and M-2 zone districts. They may be operated on the same lot and in conjunction with uses that are specifically allowed in a specific district. In the M-1 zone, retail sales must be conducted within the same building as the principal permitted use and shall not occupy more than twenty percent (20%) of the gross floor area of the principal building. In the PIP-1, PIP-2 and M-2 zones, retail sales may be conducted outside the principal building, but the combined sales area of both inside and outside the principal building shall not occupy more than thirty percent (30%) of the gross floor area of the principal building.

Accessory Sales and Service



K. Medical Marijuana Facility (MMJ Facility): A medical marijuana facility shall be subject to the following additional standards:

1. The MMJ facility is prohibited within a residential zone district or dwelling unit, to the extent the facility is not subject to an exception pursuant to subsection [7.3.105R](#) of this article.
2. The MMJ facility must hold valid local and State medical marijuana business licenses and local and State sales tax licenses, as applicable.
3. On premises use, consumption, ingestion, or inhalation within an MMJ facility is prohibited.
4. If necessary, the facility shall install, maintain and operate an air filtration system so that odor is not detectable beyond the facility.
5. A medical marijuana center (MMC) shall be located no less than four hundred feet (400') from any public or private elementary, middle, junior high or high school, or a residential childcare facility or a drug or alcohol treatment facility. This minimum distance shall be measured from the nearest portion of the building used for the medical marijuana center to the nearest property line of the school, residential childcare facility or drug or alcohol treatment facility using a route of direct pedestrian access.
6. City Council specifically finds and determines that it is in the best interests of the public health, safety and welfare to forego zoning enforcement action against those MMJ facilities located within the office residential (OR) or office complex (OC) zone districts that: a) otherwise complied with the City's preapplication procedure found in chapter 2, article 3, part 11 of this Code, b) are found to be in compliance with subsection N of this section, and c) are subsequently granted State and local medical marijuana business licenses. So long as these qualified MMJ facilities obtain and maintain State and local medical marijuana business licenses at the locations identified in the preapplication, the City will forego any adverse zoning enforcement action related to that MMJ facility use in the OR or OC zone.

This zoning enforcement forbearance only applies to the identified and qualified MMJ facilities owned or operated by the person or entity identified in the preapplication and shall not run with the land. Should these identified MMJ facilities cease operations for any period of time in the facilities' current OR or OC zone, the City shall enforce zoning restrictions against the reestablishment of, or any expansion of any existing MMJ facility, or any proposed new MMJ facility seeking to locate in any OR or OC zone. No MMJ facility located in an OR or OC zone district shall be declared a legal nonconforming use or be granted any "grandfathered" land use rights.

7.4.203: PARKING SPACE REQUIREMENTS BY USE:

A. Minimum Number Of Off Street Parking Spaces: The minimum number of off street parking spaces to be provided for a use is listed in the following table. All parking ratios are based upon the gross floor area contained within the building. When the computation of the required off street parking spaces results in a fraction, the requirement shall be rounded to the nearest whole interval. Fractions of 0.5 or less shall be rounded to the next lowest whole number. Fractions greater than 0.5 shall be rounded to the next highest whole number. Parking amounts required for uses in MU zone districts are subject to the supplemental parking requirements and standards in subsection [7.3.712B](#) of this chapter. Alternative parking requirements may be established as a part of an FBZ regulating plan.

The required off street parking spaces for a use which is not specifically listed, shall be determined by the Manager based upon the requirements of other listed similar uses.

MINIMUM OFF STREET PARKING REQUIREMENTS FOR SPECIFIC USES

Use Types	Minimum Required Off Street Parking Spaces In All Zone Districts, Except As Allowed In Subsection 7.3.712A Of This Chapter
Commercial use types:	
Medical marijuana facility:	
Medical marijuana center	1 space per 300 square feet - retail, 1 space per 400 square feet - office
Medical marijuana infused product manufacturer	1 space per 750 square feet
Optional premises cultivation operation	1 space per 5,000 square feet - grow and process, 1 space per 400 square feet - office

Note:

1. Square footage is based off the gross floor area within a particular business.