

ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING SECTION 107 (APPLICATION INVESTIGATION; DECISION), SECTION 108 (SUSPENSION OR REVOCATION; HEARINGS; DECISION), AND SECTION 109 (UNLAWFUL ACTS) OF PART 1 (MEDICAL MARIJUANA LICENSE CODE) OF ARTICLE 2 (MARIJUANA) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO MEDICAL MARIJUANA LICENSE CODE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 102 (Definitions) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

* * *

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.

* * *

Section 2. Section 107 (Application Investigation; Decision) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2

(Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.2.107: APPLICATION INVESTIGATION; DECISION:

B. * * *

3. Has been previously denied a license under this ~~part~~**chapter**;

* * *

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~~**chapter**.

Section 3. Section 108 (Suspension or Revocation; Hearings; Decision) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.2.108: SUSPENSION OR REVOCATION; HEARINGS; DECISION:

A. Suspension or revocation **of a license** ~~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 willful 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;. **If the Licensee does not contest the violation of a State Statute, City Code, or State or Local Rules and regulations, the Licensee may enter into a stipulated agreement with the Local Licensing Authority without the need for a hearing. If the Licensee contests the alleged violation of a State Statute, City Code, or State or Local Rules and regulations, the Licensee 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 alleged 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, **if the violation is contested, a** notice of hearing to any person or business licensed pursuant to this article.

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Section 4. Section 109 (Unlawful Acts) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.2.109: UNLAWFUL ACTS:

A. In addition to the grounds set forth in C.R.S. § 12-43.3-901, et seq, it shall be unlawful for any person licensed pursuant to this article to:

1. Fail to comply with provisions of 1 CCR 212-2, et seq, and the Medical Marijuana Rules and Regulations for the City of Colorado Springs.

~~2.~~ Make a willful misrepresentation in applying for a license.

~~3.~~ Fail to surrender to the Local Licensing Authority the license when required.

~~4.~~ Fail to permit inspection/examination of books and records as required by law.

~~5.~~ Consume or permit the consumption of medical marijuana in a licensed premises.

- ~~56.~~ Fail to designate areas of ingress and egress for limited access areas and post signs in conspicuous locations as required by State law.
- ~~67.~~ Fail to report a transfer or change in ownership, **or any new financial interest or investment.**
- ~~78.~~ Fail to report the name of or a change in managers as required by State law **City code and regulations.**
- ~~89.~~ Display any signs **or advertising** that ~~are~~**is** inconsistent with the City or State law or regulations.
- ~~910.~~ Use advertising material that is misleading, deceptive, or false, **or that is designed to appeal to minors, or that is inconsistent with the medicinal use of Medical Marijuana.**
- ~~1011.~~ For ~~medical marijuana center licensees,~~ **As a Medical Marijuana Center licensee,** fail to maintain possession of a storefront from which the business is operated.
- ~~1112.~~ Operate a retail marijuana establishment within the City of Colorado Springs.
- 13. Sell, serve, or distribute any Medical Marijuana or Medical Marijuana Infused Product at any time other than between the hours of 8:00 am and 7:00 pm, Monday through Sunday.**
- 14. Initiate the transport of any Medical Marijuana or Medical Marijuana Infused Product to another licensed facility at any time other than between the hours of 7:00 am and 10:00 pm, Monday through Sunday.**
- 15. Fail to report changes and apply for a Modification of Premises as required by City code and regulations.**
- 16. Fail to disclose or apply for changes to hazardous or non-hazardous extraction processes for Medical Marijuana Infused Product (MIP) licensed activities, as defined in zoning code, fire code, and the Medical Marijuana Rules and Regulations for the City of Colorado Springs.**
- 17. Sell, transfer, or possess any products other than Medical Marijuana or Medical Marijuana Infused Products or non-consumable cannabis related products and accessories.**

18. Sell or distribute any nicotine products or alcohol products, or Medical Marijuana or Medical Marijuana Infused Products that contain any nicotine or alcohol.

19. Sell Medical Marijuana Products or Medical Marijuana Infused Products over the internet or deliver Medical Marijuana Products or Medical Marijuana Infused Products to a person not physically present inside the Medical Marijuana Center's licensed premises. Nothing in this section is meant to inhibit or prohibit the lawful sales and transportation of Medical Marijuana or Medical Marijuana Infused Products to other Medical Marijuana Center facilities licensed pursuant to State law.

20. Display, cultivate, sell, or transport any Medical Marijuana Products or Medical Marijuana Infused Products in a manner that is visible to the public.

21. Cultivate any Medical Marijuana not in an enclosed building or without adequate ventilation and filtration system that ensures odors from the cultivation activities are not detectable by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit.

22. Fail to maintain compliance with current building and fire codes, including plumbing, electrical, and mechanical.

23. Fail to report or disclose any State Marijuana Enforcement Division violation notice or pending charges, or any suspension or revocation of an associated State Marijuana Enforcement Division license.

* * *

Section 5. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 6. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2016.

Finally passed: _____
_____ Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk