

Medical Marijuana Licensing

History, Business Model and the Application Process

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City Clerk's Office

<https://coloradosprings.gov/mmj>

Medical Marijuana (MMJ)

- **Amendment 20** (Colo. Const. Art. 18, § 14)
 - Passed in November 2000
 - Authorizes Medical Marijuana cultivation and sales
 - Colorado Department of Public Health and Environment
 - Issues patient registry identification cards, “Red Cards”
 - Individuals must have physician recommendation for treatment of chronic or debilitating diseases or conditions
 - Patient may grow up to 6 plants
 - Patient may possess up to 2 ounces of refined MMJ product
 - Physician may recommend a higher (extended) plant and ounce count

Medical Marijuana (MMJ)

- Amendment 20 and resulting statutes and regulations divide authorized activities:
 - Medical Marijuana Business Licensing model
 - Primary Caregiver (“Caregiver”) model
- Models are mutually exclusive
 - Patient may cultivate their own plants or designate either a licensed Medical Marijuana Center or a caregiver to cultivate plants
- “Red Card” holder may purchase MMJ product from any licensed Medical Marijuana Center

MMJ Business Model

- Dual Jurisdictional Licensing Program
 - State: Colorado Department of Revenue- Marijuana Enforcement Division: MED (C.R.S. § 12-43.3, and 1 C.C.R. 212-1)
 - Local: City of Colorado Springs : (City Code § 2.3, Part 1, City Code § 2.1, and MMJ Rules)
- Licensed MMJ Businesses may cultivate, manufacture and sell medical marijuana
 - Medical Marijuana Center (MCC)
 - Optional Premises Cultivation (OPC)
 - Infused Product Manufacturer (MIP)

MMJ Application Process ¹

(Application process is approximately 3-5 months)

| City of Colorado Springs | | State of Colorado - MED |
|---|---|---|
| Applicant files pre-application inquiry with Land Use | | Applicant secures application appointment with MED (currently approx. 45-60 days out) |
| ↓ | | ↓ |
| Applicant secures possession of premises (lease or ownership) | | |
| ↓ | | |
| Applicant submits MMJ application(s) to Clerk's Office | | |
| ↓ | | ↓ |
| Clerk's Office provides proof of application with local authority | → | Applicant Submits MMJ application to MED |

MMJ Application Process ²

(Application process is approximately 3-5 months)

| City of Colorado Springs | | State of Colorado - MED |
|--|---|---|
| City Review and Investigations | ← | MED provides proof of application |
| ↓ | | ↓ |
| City action on application | | MED Review and Investigations |
| ↓ | | ↓ |
| Clerk's Office sends local approval to MED | → | MED action on application |
| ↓ | | ↓ |
| Clerk's Office receives MED licenses | ← | MED sends new license(s) to applicant and copies to local authority |
| ↓ | | ↓ |
| Clerk's Office notifies applicant of annual license fees due and building/fire code compliance due | | |

MMJ Application Process ³

(Application process is approximately 3-5 months)

| City of Colorado Springs | | State of Colorado - MED |
|--|---|---|
| Clerk's Office sends MED copy of City license(s), pending final inspections and issuance of license(s) | → | MED receives copy of local authority license(s) |
| ↓ | | |
| Clerk's Office receives proof of building and fire code compliance (CO) | | |
| ↓ | | |
| Clerk's Office conducts license inspection for basic MED and City compliance, and issues City license(s) | | |
| ↓ | | |
| Licensee now able to exercise rights and privileges of MMJ licenses (begin operations) as long as they are and remain in compliance with City and State MMJ code and regulations | | |

MMJ Business Model

Key components for a complete MMJ application acceptance:

- Materially complete and accurate City application form
- Copy of complete and accurate State MED application form
- Diagram of each proposed licensed premises conforming to Rule 2.1.02(A)(10)
- Proof of sole and exclusive possession each premises to be licensed
- Complete and accurate background information and forms for all officers, owners, and managers
- Complete disclosure of all financial investment and interests with proof of lawful funding source(s)
- Complete and accurate company/organizational documentation
- Proof of application for City and State Sales/Resale Tax licenses
- Non-refundable application fee

Key City reviews for MMJ applications:

- City Sales Tax approval
- Land Use Review approval (triggers DRE/RBD permit process)
- CSPD – MVNI background investigations
- CSFD – Fire Marshal approval (not needed for application approval, but required for license issuance)
- City Clerk's Office review, investigation and inspection (average of 16.5 staff hours)

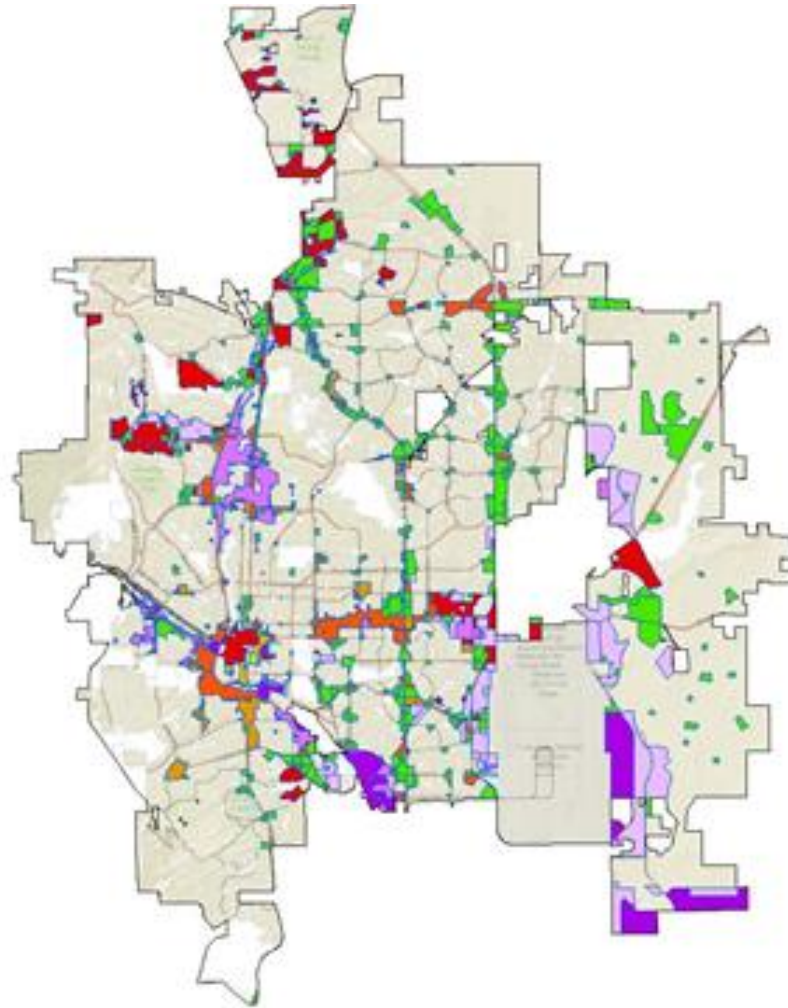
MMJ Land Use Regulations

- MMJ facilities are permitted in the following zoning districts as a use by right:
 - Planned Business Center (PBC)
 - Intermediate Business (C-5)
 - General Business (C-6)
 - Planned Industrial Park 1 (PIP-1)
 - Planned Industrial Park 2 (PIP-2)
 - Light Industrial (M-1)
 - Heavy Industrial (M-2)

MMJ Land Use Regulations

- Key land use regulations under City Code Section 7.3.205.K:
 - On premises use, consumption, ingestion, or inhalation within an MMJ facility is prohibited
 - If necessary, the facility shall install, maintain and operate an air filtration system so that odor is not detectable beyond the facility
 - 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.

MMJ Land Use Regulations



MMJ Business Model

Medical Marijuana Business Licenses as of: October 9, 2015

| License Type | Active | Pending | 10/9/2015 Total | 6/30/2010 Total |
|-------------------------------------|------------|-----------|--------------------|--------------------|
| Licensees/Applicants (Unique) | 114 | 11 | 125 | 186 |
| Medical Marijuana Center (MCC) | 109 | 13 | 122 | 169 |
| Optional Premises Cultivation (OPC) | 135 | 17 | 152 | 206 |
| Infused Product Manufacturer (MIP) | 32 | 9 | 41 | 70 |
| Total License Types | 276 | 39 | 315 | 445 |
| Addresses/Locations (Unique) | 163 | 25 | 188 | 303 |

MMJ Caregiver Model

- “Primary Care-giver” is a person, other than patient or patient’s physician, with significant responsibility for managing the well-being of a patient
 - Currently not required to register with MED
 - Senate Bill 15-014 effective 01-01-2017 will require registration and add restriction of a total plant count maximum of 99 plants
 - Maximum of 5 patients, with a maximum cultivation of 6 plants per patient, or extended plant count per patient recommended by physician
 - City of Colorado Springs residential zoning code allows for a maximum of 6 plants per patient for no more than 5 patients
 - 6 additional plants are allowed if the Caregiver is also a patient
 - 1 caregiver only per dwelling is permitted
 - 36 plant maximum for residential zoning

Recreational Marijuana (RMJ)

- **Recreational/Retail Marijuana (RMJ)**
 - Amendment 64 passed in November 2012 (Colo. Const. Art. 18, § 16)
 - Authorizes Recreational/Retail Marijuana cultivation and sales
 - Retail sales, cultivation, product manufacturing, and/or marijuana testing (C.R.S. § 12-43.4)
 - Personal recreational possession and use
 - Industrial Hemp activities
 - City Council has banned Retail Marijuana Establishments in City Limits (City Code § 2.3.109(A)(11))
 - Personal recreational provisions remain legal/authorized
- **Industrial Hemp**
 - Hemp (less than 0.3% THC content) is **not** classified as marijuana
 - Separately regulated only by the Colorado Department of Agriculture
 - City of Colorado Springs zoning limits hemp cultivation to agricultural zones
 - No prohibition on outdoor cultivation or detectible odors beyond facility

Marijuana Cultivation

Marijuana Plant Count Quick Reference Chart

from Marijuana Plant Count Operations Primer

| Cultivation Operation Type | Maximum Plant Count |
|---|---|
| RMJ – Personal (residential zone) | 6 plants per person over 21 year old; max of 5 unrelated individuals per dwelling unit |
| RMJ – Personal (non-residential) | Not currently regulated (co-ops) |
| RMJ – Retail sales/cultivation (Retail Marijuana Establishment) | Prohibited/banned in City Limits |
| RMJ – Marijuana Consumption Clubs (MCC) | Although similar use interpretation as “social clubs,” an MCC is not currently regulated (draft regulations pending), however strict interpretation of A64 appears to prohibit cultivation, production, and sales with this activity. |
| MMJ Caregiver (residential) | 36, no more than one caregiver per residential unit. |
| MMJ Caregiver (non-residential) | Not currently limited, based on authorized patient count; 99 maximum combined total effective 1/1/2017 |
| Licensed MMJ Business: OPC-MMC | Not limited, based on authorized patient count, tiered licensing levels at MED. |
| Licensed MMJ Business: OPC-MIP | 500 plant maximum, unless authorized waiver from MED |