

ORDINANCE NO. 2526

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST,  
HUSEMAN, KIM, MADERA, NOBLE

AN ORDINANCE RETITLING CHAPTER 8 AND REPEALING AND REENACTING ARTICLE II OF CHAPTER 8 OF THE COMMERCE CITY REVISED MUNICIPAL CODE PERTAINING TO THE LICENSING OF MEDICAL AND RECREATIONAL MARIJUANA BUSINESSES

WHEREAS, in 2015, the City Council enacted Ordinance No. 2050, which established regulations prescribing the manner in which marijuana businesses within the City of Commerce City (“City”) are licensed and how such businesses are conducted as necessary and appropriate to protect the health, safety, and welfare of the residents, businesses, and property in the city;

WHEREAS, in 2019, Governor Polis signed House Bill 19-1230 authorizing marijuana hospitality spaces, established requirements and prohibitions for hospitality spaces, and appropriated funds from the marijuana cash fund to implement the act;

WHEREAS, in 2019, Governor Polis signed House Bill 19-1234 creating marijuana delivery permits for medical marijuana stores, retail marijuana businesses, and transporters allowed to deliver marijuana products, thus permitting the delivery of marijuana products to private residences;

WHEREAS, in 2019, Governor Polis signed House Bill 19-1090 which permitted natural persons, publicly traded companies, or qualified private funds to invest in Colorado marijuana businesses;

WHEREAS, in 2019, Governor Polis signed Senate Bill 19-224 which made significant changes to the retail and medical marijuana codes and combined the medical and retail marijuana code into one article in title 44;

WHEREAS, in 2019, Governor Polis signed Senate Bill 19-218 which clarified the physician-patient relationship for purposes of medical marijuana recommendations, clarified the relationship between a primary caregiver and a patient, as well as the confidentiality protections afforded that relationship, and allowed dentists or advanced practice practitioners with prescriptive authority to make medical marijuana recommendations;

WHEREAS, the City Council desires to update its regulations relating to the operation of and licensing of marijuana businesses in the city to, among other things, codify standards previously included in the Marijuana Licensing Authority’s rules of procedure, to modernize the city’s regulations, and to incorporate other standards provided under new state laws, rules, and regulations; and

WHEREAS, sections 14 and 16 of article XVIII of the Colorado Constitution and title 44, article 10 of the Colorado Revised Statutes afford to localities the option of licensing marijuana

businesses within their respective jurisdictions. In accordance with the constitutional and statutory authority, as well as the City of Commerce City's ("city") plenary authority as a home rule city to adopt and enforce ordinances under its police power to protect the health, safety, and general welfare of the city's current and future inhabitants the city seeks to adopt and enact this proposed ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

**SECTION 1. Findings.** The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and is found to be in the public interest.

**SECTION 2. Chapter 8 Retitled.** Chapter 8 of the Commerce City Revised Municipal Code is hereby retitled "Alcoholic Beverage and Marijuana Licensing."

**SECTION 3. Repeal and Reenactment of Chapter 8, Article II.** Chapter 8, Article II of the Commerce City Revised Municipal Code is hereby repealed and reenacted as shown in Exhibit A.

**SECTION 4. Inconsistencies; Conflicts.** Except as specifically modified herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect. All ordinances and provisions of the Commerce City Revised Municipal Code, or portions thereof, inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 5. Effect on Existing Licenses and Applications; Savings.** Nothing in this ordinance shall be construed to modify the current appointment of the Marijuana Licensing Authority or to reduce or modify the authority or prior actions and orders of the Marijuana Licensing Authority, except as specifically provided. All existing licenses, pending licensing applications, including applications for new or renewed licenses, and other proceedings before the Marijuana Licensing Authority shall be subject to this ordinance; provided, that neither the adoption of this ordinance nor the repeal hereby of any other ordinance shall in any manner affect the prosecution, judgment, and penalties for violations of such ordinances, which violations were committed prior to the effective date of this ordinance, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

**SECTION 6. Effective Date.** This ordinance shall be effective five (5) days after both final posting and publication have been accomplished as provided in section 5.6 of the City Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED  
THIS 24TH DAY OF JULY, 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THIS 14TH DAY OF AUGUST, 2023.

CITY OF COMMERCE CITY, COLORADO

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

\*\*\*BEGIN\*\*\*

**COMMERCE CITY REVISED MUNICIPAL CODE**  
**ARTICLE II. - MARIJUANA BUSINESSES**  
**DIVISION 1. - GENERAL PROVISIONS**

**Sec. 8-2100. Purpose and intent; conflicts.**

The purpose of this article is to implement the provisions of title 44, article 10 of the Colorado Revised Statutes, authorize the licensing and regulation of marijuana businesses in the city pursuant to the requirements of state law and this article, and to designate a local licensing authority to issue and process applications submitted for such licenses. Nothing in this article shall be construed to condone, promote, facilitate or otherwise to permit the cultivation, manufacture, sale, distribution, possession, or use of marijuana in violation of any applicable law.

The provisions in these regulations that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety, and welfare of the current and future inhabitants of the city. Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Colorado Marijuana Code, C.R.S §§44-10-101 - 1401, and the Colorado Marijuana Rules, 1 CCR 212-3, as amended. In the event of a conflict between the provisions of this article and the provisions of the Colorado Marijuana Code, the Colorado Marijuana Rules, or any other applicable state or local law, the more restrictive provision shall control.

**Sec. 8-2101. - Definitions.**

The definitions set forth in subsections 14(1) and 16(2) of article XVIII of the Colorado Constitution, as well as the definitions in title 44, article 10 of the Colorado Revised Statutes, and the Colorado Marijuana Rules, 1 CCR 212-3, as amended, shall apply equally to this article except where specifically defined below. Any words and phrases not ascribed a meaning in such manner shall have their common, ordinary, and accepted meanings.

- (a) *Administrative application* means any license or permit related application on forms approved by the city or the state for which a public hearing is not required under state or local marijuana laws. Administrative applications, at the marijuana licensing authority's discretion, may include, but are not limited to, the following:
- (1) Temporary permits;
  - (2) Change in organizational structure;
  - (3) Modification of premises;
  - (4) Change of business or trade name; and
  - (5) Any other license or permit related application for which a public hearing is not required by state or local marijuana laws or regulations.

- (b) *Applicant* means any person who has submitted an application for a license or permit or renewal of a license or permit issued pursuant to this article. If the applicant is not a natural person, the term shall include all persons who are the members, managers, officers, directors, financiers, partners, and shareholders of such entity.
- (c) *Authority or marijuana licensing authority* means the local licensing authority for the city.
- (d) *Business manager* means the individual(s) designated by the owner of the marijuana business as responsible for the operation of the business in the absence of the owner from the business premises. Business manager shall include any person with managerial authority in the business, and any person that has access to lock or unlock any safe at the premises, to lock or unlock the business, or set or disarm any security alarm at the premises.
- (e) *Clerk or city clerk* means the city clerk of the City of Commerce City or designee.
- (f) *Colorado Marijuana Code* means sections 14 and 16 of article XVIII of the Colorado Constitution, title 44 article 10 of the Colorado Revised Statutes, as amended, and any rules or regulations promulgated thereunder, including but not limited to the Colorado Marijuana Rules, 1 CCR 212-3, as amended.
- (g) *Cultivation or cultivate* means the process by which a person grows a marijuana plant.
- (h) “*Good cause*” for purposes of refusing, suspending, revoking, or denying the issuance or renewal of a license or permit means:
  - (1) The applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this code, the Colorado Marijuana Code, or any state or local rules or regulations pertaining to marijuana businesses in the city or any other jurisdiction, including any applicable building, fire, health or zoning statute, code, ordinance, or regulation;
  - (2) The applicant has failed to comply with any special terms or conditions placed on the license or permit by order of the state licensing authority or the marijuana licensing authority, or that were placed on its license or permit in prior disciplinary proceedings, or that arose in the context of potential disciplinary proceedings;
  - (3) The marijuana business has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the marijuana business is located; or
  - (4) The applicant, or any officer, director, owner, shareholder, manager, agent, or employee of the applicant is not of good moral character.
- (i) “*Good cause*” for purposes of extensions, continuances, or other such procedural matters, means unforeseen or emergency circumstances resulting in extreme and undue hardship

that in the licensing authority's determination necessitates a deviation from the time restrictions or other procedural matters contained herein, except those time restrictions imposed by state law or local ordinance.

- (j) *Good moral character* means a person who has a personal history demonstrating honesty, fairness, respect for the rights of others, and conformance to law. It also includes the propensities of the individual toward criminal conduct beyond just the contents of the individual's criminal record. In making evaluations of the good moral character of individuals under this article, the licensing authority may consider, but shall not be limited to, the following considerations:
- (1) An individual's criminal history, including the factors set forth in C.R.S. § 24-5-101 (2);
  - (2) Any denial, suspension, revocation, or other disciplinary action relating to business and professional licenses currently or previously held;
  - (3) Evidence of a business temporarily or permanently closing for failure to comply with any tax, health, building, fire, zoning, or safety law;
  - (4) Any previous administrative, civil, or criminal finding of delinquency for failure to file or failure to pay sales, use, or any other taxes;
  - (5) The types and dates of criminal or licensure violations, including whether the violations are related to moral turpitude, substance abuse, or public safety;
  - (6) Evidence regarding abuse of intoxicating or controlled substances;
  - (7) The evidence of rehabilitation, if any, submitted by the applicant; and
  - (8) Any additional information that may otherwise directly affect the applicant's ability to operate a marijuana business in conformity with applicable laws and regulations.
- (k) *License or permit* means a document issued by the city officially authorizing the operation of a marijuana business pursuant to this article.
- (l) *Licensed premises* means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area, identified in an approved application for the operation of a marijuana business and owned or in the possession of the licensee or permittee.
- (m) *Licensee or permittee* means the marijuana business named on the marijuana business license or permit, and all individuals named in the marijuana business license or permit application or later reported to the city, including, without limitation, owners, business managers, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a marijuana business.

- (n) *Marijuana business or business* means any medical marijuana business and any retail marijuana business.
- (o) *Medical marijuana business* means a medical marijuana store, a medical marijuana cultivation facility, medical marijuana products manufacturer, a medical marijuana testing facility, a marijuana research and development licensee, a medical marijuana business operator, or a medical marijuana transporter.
- (p) *Neighborhood under consideration* means the geographic neighborhood in which the property that is the subject of an application is located as determined by the city clerk or the authority.
- (q) *Party in interest* means an applicant, an adult resident of the neighborhood under consideration, the owner, manager, or authorized representative of a business located in the neighborhood under consideration, the principal or authorized representative of any school located within in the neighborhood under consideration, or an authorized representative of a registered neighborhood organization that encompasses all or part of the neighborhood under consideration.
- (r) *Posted on the property*, for purposes of any required notices, means at or near the proposed or licensed premises in a conspicuous location accessible to and in a place easily viewed by the public.
- (s) *Resident* for purposes of determining the neighborhood needs and desires, means all people domiciled in, all owners or managers of businesses, and all landlords or property owners located within the neighborhood boundaries set by the clerk, but shall exclude the landlord or property owner of the proposed premises and the applicant, if located within the neighborhood boundaries set by the city clerk.
- (t) *Retail marijuana business* means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter licensed pursuant to the Colorado Marijuana Code.

**Sec. 8-2103. – Scope.**

The provisions of this article shall apply to all persons or entities who may apply for licensure, or an associated permit, to operate a marijuana business in the city, who are engaged in the operation of a marijuana business within the city, or who engage in the cultivation, manufacture, sale, distribution, possession, transportation, or use of marijuana.

**Sec. 8-2104. - Marijuana licensing authority.**

- (a) *Establishment of authority.* The marijuana licensing authority is hereby created for the purpose of regulating and controlling all the marijuana businesses in the city and shall act as the local licensing authority for the city. The city council shall appoint a hearing officer to serve, at its pleasure, as the marijuana licensing authority. The marijuana

licensing authority shall have the final authority of review and approval on all such matters relating to marijuana businesses in the city.

- (b) *Powers of licensure; generally.* The marijuana licensing authority has the authority to grant, refuse, summarily suspend, or revoke any license or permit as authorized by this article. The marijuana licensing authority may also order special terms and conditions on licenses or permits without the need for a public hearing.
- (c) *Rules of procedure.* To properly administer and enforce this article, the marijuana licensing authority may promulgate and amend such procedural rules, consistent with this code, as the authority deems necessary. Any procedural rules promulgated by the authority, as may be amended from time to time, shall be posted on the city's website.
- (d) *Power to administer oaths; issue subpoenas.* The marijuana licensing authority has the authority to administer oaths and to issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing which the authority is authorized to conduct.
- (e) *Other powers and duties.* The marijuana licensing authority may exercise all other powers and duties as may be explicitly granted or reasonably inferred by the Colorado Marijuana Code, this code, and any rule or regulation adopted pursuant thereto. The marijuana licensing authority, along with the state licensing authority, shall enforce compliance with the requirements established in these regulations, local ordinances, and the applicable provisions of the Colorado Marijuana Code.

**Sec. 8-2105. Appeals of authority decisions.**

All decisions of the marijuana licensing authority are final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

**Sec. 8-2106. - General and administrative penalties and remedies.**

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and shall be subject to the penalties and remedies set forth in this code. In addition to such general penalties, any applicant or licensee who violates, or whose agents or employees violate, the terms of this article, any provision of the Colorado Marijuana Code, or any applicable state or local law, rules, or regulations adopted pursuant thereto shall be subject to such administrative penalties as the authority deems appropriate, including, without limitation, the suspension, revocation, or denial of the license or permit, the imposition of a fine in lieu of suspension, and additional terms and conditions on the license. A conviction shall be grounds for, but shall not be required prior to, the authority taking action against the license or permit. Nothing in this section shall limit the original jurisdiction of the municipal court to hear and determine all cases regarding criminal, decriminalized, and civil violations and offenses under the Charter, ordinances, codes, and regulations of the city; or to require that any alleged violations be addressed through the licensing process established in this article as a prerequisite to the municipal court's jurisdiction to hear and determine such violations and offenses.

**DIVISION 2. APPLICATION AND LICENSING**



**Sec. 8-2200. – License Required.**

It shall be unlawful for any person to engage in any form of business involving marijuana in the city without a valid license or permit authorizing that business issued by the city’s licensing authority and a corresponding state license or permit issued pursuant to the Colorado Marijuana Code for the same business.

**Sec. 8-2201. – Licenses and Permits Authorized**

The authority may, for the purpose of regulating cultivation, manufacture, research and development, testing, transportation, storage, sale or distribution, delivery, and consumption of regulated marijuana, issues a local license or permit for any of the following classes, subject to the provisions of this code and the Colorado Marijuana Code:

- (a) Medical marijuana store license;
- (b) Medical marijuana delivery permit;
- (c) Medical marijuana cultivation facility license;
- (d) Primary caregiver license;
- (e) Medical marijuana products manufacturer license;
- (f) Medical marijuana testing facility license;
- (g) Medical marijuana transporter license;
- (h) Medical marijuana off-premises storage facility permit;
- (i) Marijuana research and development license;
- (j) Retail marijuana store license;
- (k) Retail marijuana cultivation facility license;
- (l) Retail marijuana products manufacturer license;
- (m) Retail marijuana testing facility license; and
- (n) Retail marijuana off-premises storage facility permit.

**Sec. 8-2202. - Prohibited licensees.**

In addition to the prohibitions set out in state law, a license or permit provided by this article shall not be issued to or held by a person who has been convicted of the offense of operating a marijuana business without a license in the five (5) years immediately preceding the application date.

**Sec. 8-2203. – General application requirements.**

- (a) *General.* All applicants shall follow the procedures set forth in this article; any rules promulgated by the marijuana licensing authority; and the Colorado Marijuana Code provisions pertaining to license applications.
- (b) *Local application requirements.* All license applicants shall submit to the clerk a local license application, including the local background investigation, any associated key person, and all other application or renewal forms submitted to the State. The applicant shall also provide any information that is deemed necessary by the marijuana licensing authority in connection with the investigation and review of the application regarding the applicant. All permit applicants shall submit to the clerk a local permit application, including any supplemental information indicated on the form or by the clerk as being required to process the specific type of permit application. All application, licensee, and permitting fees must be paid to the city at the time of filing the application.
- (c) *Publicly traded corporations – background investigation of shareholders.* If the applicant is a publicly traded corporation, only those individual shareholders having a ten (10) percent or greater financial interest in the marijuana business that is the subject of the application shall be required to submit a complete local background investigation form to the clerk.

**Sec. 8-2204. –Letter of intent and pre-application meeting.**

Prior to the submission of an application for a new license or permit, an applicant shall submit a letter of intent to the city clerk. The letter of intent shall include the name of the individual(s) or entity applying for licensure, contact information for the applicant, the address of the proposed business, the type of license or permit sought, and the size and scope of the business. The city clerk shall schedule a pre-application meeting for the purpose of obtaining additional information from the applicant regarding the size, scope, and feasibility of the proposed business and to provide the applicant with a more complete understanding of the licensing process. Pre-application meetings are mandatory and a prerequisite to the submission of an application.

**Sec. 8-2205. –Applications.**

- (a) *Form and filing.* All applications shall be filed with, and on the forms approved by, the clerk. The clerk shall review the applications and ensure that they are complete. If complete, the clerk shall promptly submit the application to the authority for action. The authority may establish standards for formatting and organization of applications.
- (b) *Content of application.* All applications shall include the materials the city clerk deems necessary or appropriate to assist the authority in rendering its decision on the application. All applications for new licenses and off-site storage permits shall include plans and specifications for the premises to be occupied by the marijuana business, a security plan, evidence establishing the applicant’s right to possess the premises during the term of the license, proof that the applicant is permitted to use the premises for the proposed use, all required fees, and such additional materials as the city deems necessary or appropriate to assist the authority in rendering its decision on the application.

- (c) *Application for renewal.* An application for renewal must be filed not less than thirty (30) days, but not more than ninety (90) days, prior to the expiration of the license or permit. If the licensee fails to apply for renewal at least thirty (30) days prior to the expiration of the license or permit but does apply prior to the expiration of the license or permit, the city may process the renewal application if the applicant submits a late filing fee, in addition to the renewal application fee, at the time of submittal of the renewal application. The city shall not accept renewal applications after the expiration of the license or permit, but instead shall require the applicant file a new license or permit application. If a licensee submits a timely and sufficient renewal application, the licensee may continue to operate until the application is finally acted upon by the licensing authority.
- (d) *Incomplete and untimely applications.* No application shall be considered which is not complete in every detail in the opinion of the clerk. An application for a license or permit authorized by this article shall not be considered complete until the city clerk has determined that: all required contents of the application have been completed and provided to the city; the clerk has received all required application fees; and the clerk has obtained all other information determined to be necessary or appropriate to assist the authority in rendering its decision on the application. Incomplete applications may be returned to the applicant for completion or correction without any further action. It is the applicant's responsibility to ensure the application and all supplemental materials are submitted in a timely manner. Neither the city nor the authority shall be responsible for the failure of a license or permit to be issued or renewed prior to an expiration date because of a late, incomplete or defective application.

**Sec. 8-2206. –Review—New license and permit applications, generally.**

- (a) *Neighborhood needs and desires petition.*
  - (1) Upon the clerk's determination that an application for a new license or applicable permit is complete, the applicant shall circulate a petition to determine the needs and desires of the neighborhood under consideration with respect to the proposed license or applicable permit.
  - (2) The clerk shall set the boundaries of the neighborhood under consideration for new applications, taking into account boundaries previously established for marijuana business licenses in the area. The initial designation of the boundaries of such neighborhood shall be within the sole discretion of the clerk in accordance with policies established by the authority. The clerk shall notify the applicant of such boundaries, and those boundaries shall be deemed accepted unless a written objection is filed by the applicant within five (5) days of receiving notice. If an objection is filed by the applicant, the city clerk shall set the matter for a public hearing before the authority. At the conclusion of the hearing, during which any interested city business owner, property owner, or resident shall have the right to be heard, the authority shall establish the boundaries of the relevant neighborhood by either approving or modifying the boundaries set by the clerk.

- (3) Any petition to determine the needs and desires of the neighborhood must be conducted by a professional petitioning company and not by the applicant. Only one qualified person per business or residential address may sign a petition. The authority may establish additional requirements regarding the contents of the petition and manner of its circulation.
- (b) *Hearing.* Upon receipt of a complete application for a new license or applicable permit, the authority shall schedule the matter for hearing not less than thirty (30) days from the date upon which the clerk determines that all application materials are complete. The hearing shall be open to the public and shall be conducted in accordance with this article and regulations issued by the marijuana licensing authority.
- (c) *Notice of hearing.* Notice of the hearing shall be posted on the property and published on the city's website not less than ten (10) days prior to the date of the hearing. No less than twenty-eight (28) days before the hearing, the applicant will mail notice to all property owners within a one-half (½) mile radius of the property that is the subject of the application regarding the application. Such notice shall include: the date and time of the public hearing, the address where the hearing will be held, and the deadline (seven (7) days before the hearing) by which any written comments or objections regarding the application must be received by the authority. All petitions or other documents bearing on the neighborhood desires shall be submitted no later than seven (7) days before the date scheduled for the hearing. The applicant shall provide proof of all required notices to the clerk by affidavit and photograph.
- (d) *Preliminary findings.* Not less than five (5) days prior to the date of the hearing, the clerk will make preliminary findings in writing regarding the application and the petition and shall send such findings to the authority and the applicant or will request that the authority postpone the hearing to provide additional time for the city to complete its investigation or for the applicant to submit or correct its petition. The findings shall encompass the clerk's preliminary recommendation as to whether the requirements for licensure or permitting are met, including by way of illustration and not limitation:
  - (1) Whether the applicant is or will be entitled to possession of the premises for which application is made;
  - (2) Whether the premises occupied or to be occupied by the marijuana business, as contemplated by the application, is not in violation of the land development, fire, building, or other applicable ordinances, regulations, or rules of the city or any other applicable laws, regulations, or rules of the State;
  - (3) The number and type of marijuana businesses located in or near the neighborhood under consideration;
  - (4) Whether the applicant has timely provided all required notices;
  - (5) The status of the background investigation concerning the applicant; and

- (6) Whether the applicant has completely submitted all required application materials as required by this article and regulations issued by the authority.
- (e) *Burden of proof; evidence.*
- (1) The applicant shall bear the burden of proving that all qualifications for licensure or permitting have been satisfied, that the neighborhood under consideration needs and desires the business and will not be negatively impacted by the business, that the applicant possesses good moral character and is fit to hold the requested license or permit, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law.
  - (2) The authority may consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its or the city's investigation, evidence presented by the applicant and any party in interest, as well as any other facts pertinent to the type of license or permit for which application has been made, including the number, type and availability of retail marijuana establishments located in or near the premises under consideration, and any other pertinent matters materially affecting the substantive qualifications of the applicant for the conduct of the type of business proposed, the moral character of the applicant, the method of operation of the business.
  - (3) In addition, the authority shall consider whether approval of the application would result in any of the following demonstrable negative impacts on the surrounding neighborhood:
    - a. An undue concentration of marijuana businesses in the neighborhood under consideration that would require the use of additional law enforcement resources;
    - b. An increase in traffic congestion;
    - c. A shortage of available parking; or
    - d. Other demonstrable negative impacts that may be caused by the proposed marijuana business.
- (f) *Decision on application; conditions.* The authority shall approve an application if it determines, based on the evidence presented at the hearing, that the applicant has satisfied its burden of proof and that no good cause for denial exists. Such approval may contain any condition that the authority deems necessary or appropriate to ensure compliance with state and local laws. If an application is denied or any approval is conditioned, the authority shall issue a written decision explaining why good cause exists for the denial or explaining the conditions of approval, as applicable. A finding of any one of the following by the authority, in and of itself, constitutes full and adequate grounds for denying an application:

- (1) The applicant has not paid all applicable fees required by this article;
  - (2) The applicant has violated, does not meet, or has failed to comply with any provision of the applicable provisions in this code, any rules of procedure adopted by the authority, the Colorado Marijuana Code, or any other applicable building, fire, health or zoning statute, code, ordinance, rule, or regulation adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (3) The application contains false, misleading, or incomplete information;
  - (4) The applicant, or any person actually identified or required to be identified on an application (including without limitation an officer, owner, manager, shareholder (for publicly traded corporations, only those shareholders having a ten (10) percent or greater financial interest in the subject marijuana business), executives, key employees, and any other person(s) having a direct or indirect financial interest in the business) other owner, agent, employee, or any person having a direct or indirect financial interest in the business, is not of good moral character;
  - (5) The applicant is not reasonably likely to commence operations within one year of the issuance of the license or permit by the state;
  - (6) The applicant has failed to file any tax return as required by law in relation to the marijuana establishment for which the license or permit is sought;
  - (7) The applicant is overdue on payment to the city of any taxes, interest, penalties, and collection costs assessed against or imposed upon such applicant or licensee in relation to the marijuana establishment for which the license or permit is sought;
  - (8) The applicant employs or intends to employ a person who has not submitted fingerprints for a criminal background check who is required to submit a background check; or
  - (9) For good cause, as defined in this code and the Colorado Marijuana Code.
- (g) *Building occupancy.* No license or permit shall be issued until the building in which the business is to be conducted has been issued a certificate of occupancy with all fixtures, furniture, and equipment in place as is necessary to comply with the applicable provisions of this code and state law, and then only after the city has completed an inspection of the premises and determined that the applicant has complied with the plans approved by the authority. Satisfaction of the requirements of this subsection shall be considered to be a condition of approval of any application.
- (h) *Issuance of license or permit; extensions.*

- (1) If an application is approved by the authority, the clerk will issue a license or permit when:
  - a. the applicant has satisfied any conditions of the approval precedent to issuance of a license or permit; and
  - b. the applicant has demonstrated compliance with subsection (g), above.
- (2) The applicant will have one (1) year from the authority's approval of an application to satisfy the requirements of subsection (g), above, unless the authority approves an extension of time for good cause. Whenever it appears to the applicant that such period shall expire before the license or permit will be issued, the applicant must request an extension of time in writing at least twenty-eight (28) days prior to the end of the expiration of the time established by this subsection and submit a non-refundable fee for the renewal of its application. The applicant must provide an affidavit demonstrating the applicant's diligence in pursuing satisfaction of the requirements of subsection (g), above, the reasons why such requirements have not been satisfied, and the applicant's likelihood to commence business operations within one (1) year.
- (3) If the authority is satisfied the applicant is diligently making progress toward the satisfaction of the requirements of subsection (g), above, and will be reasonably likely to commence business operations within an additional one (1) year, the authority may extend the initial approval of the application for an additional period not to exceed one (1) year. No more than one extension shall be granted under this subsection for a total of two years from the initial approval date.
- (4) If after one (1) year when no extension has been granted, or if after two (2) years when an extension has been granted, the applicant has failed to satisfy the requirements of subsection (g), above, and the applicant is not prepared to commence business operations, the authority's initial approval of the application shall expire. The applicant's failure to proceed with due diligence shall render the local licensing authority's prior initial approval and any extension thereof null and void and shall constitute a denial of the license or permit for failure to comply with the Colorado Marijuana Code, this code, all the rules and regulations adopted pursuant thereto, and any other applicable state or local law or rule and regulation. The applicant shall not make new application for the same premises for the same type of license or permit for a period of two (2) years from the date of the denial application.
- (5) A license or permit shall not be deemed to have been issued and subject to any renewal requirements until the requirements of this section are met and a physical license or permit is issued to the applicant.

**Sec. 8-2207. – New permit applications, generally.**

- (a) *Concurrent applications.* If an initial marijuana business license is being sought concurrently with an off-premises marijuana storage or marijuana delivery permit, then an application for the permit shall be included with the marijuana business license application. The authority shall consider the permit application concurrently, but separately, from the license application.
- (b) *Prorated permits.* Any application for a permit attached to an existing marijuana business license shall have its permitting fee prorated by day for the amount of time remaining until the corresponding marijuana business license expires. The permit's expiration date shall be the same date as the existing marijuana business license.
- (c) *Hearings.* A public hearing is not required for applications for marijuana delivery permits unless a hearing is deemed necessary by the authority. A public hearing for other permits shall be required unless waived by the authority upon a written request by the applicant detailing why the applicant believes a public hearing on the permit application is unnecessary.

**Sec. 8-2208. – Review—Renewals; other administrative applications.**

- (a) *Administrative decisions.* Subject to the requirements of this code and the Colorado Marijuana Code, the authority or the clerk, if authorized by the authority, may grant or deny without hearing any application other than an application for a new license or an off-site storage permit, including any administrative application for which a public hearing is not required under state or local law, if the applicant is determined to have met or failed to meet the conditions of the application. A decision to grant or deny such an application shall be based solely upon the review of the complete submitted materials and any written response by the city. The authority or the clerk, as applicable, shall issue a written decision explaining why good cause exists for any denial or the nature of any conditions of approval, as applicable.
- (b) *Hearings.* If a renewal application or other application authorized for administrative approval is not eligible for administrative approval, or if the clerk determines that the public interest would be best served by the determination of the matter by the authority, the clerk shall schedule a renewal hearing before the authority. Notice to the licensee or permittee shall be provided at least fourteen (14) days prior to the hearing. The licensee or permittee shall be responsible for posting the notice of the hearing on the licensed premises in the manner described in C.R.S. § 44-10-303, as amended, for a period of ten (10) days prior to the hearing and shall provide proof of all required notices to the clerk by affidavit and photograph. The hearing shall be open to the public and shall be conducted in accordance with this article and regulations issued by the marijuana licensing authority.
- (c) *Renewal requirement.* A licensee or permittee shall apply for renewal of the marijuana establishment license or permit at least 30 days, but no earlier than 90 days prior to the expiration of the license or permit. The licensee or permittee is solely responsible for compliance with this provision.



- (1) If the licensee or permittee fails to apply for renewal at least 30 days before the expiration of the license or permit, but does apply for renewal prior to expiration of the license or permit, the clerk may forward the renewal application to the authority for consideration if the applicant provides a written explanation of the reasons for the late renewal and submits a late filing fee at the time of submittal of the renewal application.
  - (2) If the authority finds good cause exists to accept a late application as described above, the authority may accept the renewal application and administratively continue the license or permit beyond the expiration date while the renewal process is pending.
- (d) *Renewal application.* A licensee or permittee shall apply for renewal using forms approved by the clerk. The application for renewal must include the yearly operating fee and, if applicable, late fee and the following supplemental information before the application will be considered complete and processed:
- (1) If there has been a change to any of the plans identified in the approved license or permit application which were submitted to and approved with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans;
  - (2) If any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any business manager, owner, financier, agent, or employee, has been charged with or accused of violations of any law that would have been required to have been disclosed with the application since such disclosure, the renewal application shall include the name of the actual or alleged violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application;
  - (3) If the license or permit has been suspended or revoked or a licensee or permittee has received any notice of violation of any law relating to the operation of the marijuana business, the renewal application shall include a copy of the notice, suspension, or revocation.
  - (4) Verification that the marijuana business has a valid state license or permit and the state license or permit is in good standing; and
  - (5) A summary report for the previous twelve months showing the amount of marijuana purchased or grown by the business; the amount of marijuana sold; the forms in which marijuana was sold; the details of any disciplinary actions taken against the licensee or permittee by any state or local jurisdiction in which the licensee or permittee holds a marijuana business license or permit; the police report numbers or case numbers of all police calls to the marijuana business; and, for calls resulting in a charge of a violation of any law, ordinance or regulation against the marijuana business or any of any person who has an interest as described in the disclosures

made to the city pursuant to this chapter, or any business manager, owner, financier, agent, or employee, the charge, case number, and disposition of any of the charges.

- (e) *Renewals – administrative approval.* A renewal application shall be administratively approved by the authority or the clerk, if authorized by the authority, if:
  - (1) The licensee or permittee has met the conditions of the license or permit, including compliance with the provisions of applicable law;
  - (2) The licensee or permittee has not been the subject of any disciplinary action issued by the authority or any state agency during the prior year; and
  - (3) There is no pending request by the city or order of the authority that the licensee or permittee show cause why the license or permit should not be suspended or revoked. Otherwise, the clerk shall forward a renewal application to the authority for disposition.
  
- (f) *Decision on application.*
  - (1) The authority shall approve an application if it determines, based on the evidence presented at the hearing, that the applicant has satisfied its burden of proof and that no good cause for denial exists. Such approval may contain any condition that the authority deems necessary or appropriate to ensure compliance with state and local laws.
  - (2) With respect to a renewal application, the authority may refuse or deny a license renewal for good cause, for any of the grounds that would have justified the denial of an initial application, or upon finding that renewal of the license will have a harmful or damaging impact on the public health, safety, or the general welfare of the city or the neighborhood where the establishment is located.
  - (3) Nothing in this article shall limit the authority’s ability to consider behavior occurring on or about the licensed premises. It may consider behavior that occurs in other jurisdictions in which the licensee conducts business in determining the potential impact on the city and the surrounding neighborhood.
  
- (g) *Governing law.* An application for the renewal of any license or any other administrative application is subject to the state and local laws and regulations in effect at the time of renewal such application is filed.
  
- (h) *Permit renewals.* All permits associated with a marijuana business license shall be renewed at the time the associated license is renewed. Failure to renew a permit when the corresponding license is renewed will result in the permit being invalid. Any permit that has been invalidated for failure to renew along with the corresponding license cannot be renewed and a new marijuana business permit application must be submitted. All permit

renewal applications are subject to the same filing requirements as the corresponding marijuana business license.

**Sec. 8-2209. – Licenses and permits– general standards.**

- (a) *License required.* No person shall operate a marijuana business within the city unless all required state and local licenses or permits are in full force and effect.
- (b) *Term of license.* A marijuana business license or permit shall be valid for a period of one (1) year from the date of issuance by the state licensing authority. A marijuana business license or permit is immediately invalid upon expiration of the license or permit, unless the applicant has filed, and the city has accepted, a renewal application and the authority has determined to continue the license or permit beyond the expiration date while the renewal process is pending.
- (c) *Expired license.* Expiration of a license or permit for any reason, including, without limitation, failure to file a renewal application in a timely manner, shall be considered an invalid license or permit. A licensee or permittee whose license or permit has expired shall not cultivate, manufacture, distribute, or sell any marijuana until all required licenses and permits have been obtained. If the holder of an expired license or permit files a renewal application after 90 days from date of expiration, the application will be treated as a new license or permit application.
- (d) *Extraction permit required.* No person shall conduct any extraction in conjunction with a marijuana business unless the authority has issued an extraction permit and such permit is in full force and effect at the time of the extraction.
- (e) *Separate and distinct.* Each license issued under this article is separate and distinct. It is unlawful for any person to exercise any of the privileges granted under a license or permit other than the license or permit that the person holds or for a licensee or permittee to allow any other person to exercise the privileges granted under the licensee's license or permit.
- (f) *Business premises.* A separate license is required for each marijuana business operating at a location. It is unlawful for any person to operate a marijuana business on any premises not licensed by the city. More than one (1) marijuana business may operate at the same location if section 8-2319 of this code and all applicable provisions of the Colorado Marijuana Code are complied with.
- (g) *License transferability and relocation.* A marijuana business license or permit is valid only for the owner named thereon, the type of business disclosed on the application for the license or permit, and the location for which the license or permit is issued.
  - (1) *Transfer and Changes of ownership.* No marijuana business license or permit is transferable, except as provided in the Colorado Marijuana Code. All transfers or changes of ownership shall not be considered by the Authority unless the proposed transfer or change of ownership has been approved by the state. A transfer or

change of ownership application shall not require a public hearing unless the Authority, in its sole discretion, determines a hearing is necessary.

(2) *Transfer or Change of Ownership Requirements.* All applications for a transfer or change in ownership must comply with Chapter 8 of this code, the Colorado Marijuana Code, and be submitted on forms prepared and furnished by the state for the transference of a marijuana business license or permit to a new owner. The ownership of a marijuana business's license or permit may be transferred or changed if:

- a. The transfer or change of ownership is a reallocation of an owner's interests among existing controlling beneficial owners holding a valid marijuana business license or permit. Reallocations of owners' interests resulting solely from the adding, removing, or changing of passive beneficial owners do not require an application for transfer or change of ownership, however the Authority must be provided notice of the transfer or change within forty-five (45) days; or
- b. The transfer or change of ownership is the change of an entity's legal name, the restructuring of the entity's current executive officers, board of directors, membership, or partnership, or the acquisition or control of an entity by an existing or newly formed entity with a majority of the same ownership interests as the acquired or controlled entity. Any change or transfer of ownership that results in the addition of a majority controlling beneficial owner or owners who were not part of the original entity's controlling beneficial owners' interests shall require a hearing.

(3) *Restrictions on Transfers or Changes of Ownership.*

- a. Any transfer or change of ownership that results in a complete change in the owners' interests of the original controlling beneficial owners shall require the submission of an application for a new marijuana business license or permit. The Authority, in its sole discretion, may require the submission of an application for a new marijuana business license or permit if the transfer or change of ownership constitutes a substantial alteration of the owners' interests of the original controlling beneficial owners.
- b. Any application for the transfer or change of ownership that shall alter the use, class of, or location of the original licensed or permitted marijuana business shall require an application for a new marijuana business license or permit.
- c. An application to transfer or change ownership of a marijuana business permit shall be denied if the transfer or change of ownership shall create any difference between the ownership of the permit and the ownership of the marijuana business license the permit is associated with.

- (4) *Common ownership.* If one (1) or more licenses share the same licensed premises, an application to transfer ownership of any one (1) of the licenses shall not be approved if the transfer would result in that license no longer having common ownership with the licenses sharing the same licensed premises.
  
- (5) *Transfer of location.* A marijuana business license shall not change the location of its license without approval from the authority. A change of location application shall comply with the same requirements for a new marijuana business license, including, but not limited to, needs and desires survey, public hearing requirements, proximity restrictions, and location restrictions.
  - a. *Changing a marijuana store location.* An application to change the location of a marijuana store license, retail or medical, must comply with:
    - (i) All of the other retail and medical marijuana cultivation facility license(s) and retail and medical marijuana store license(s) at the former location must also apply to change to the same new location; or
    - (ii) All other retail and medical marijuana cultivation facility license(s) and medical or retail marijuana store license(s) at the former location are surrendered.
  
  - b. *Changing a marijuana cultivation facility location.* An application to change the location of a marijuana cultivation facility license, retail or medical, must comply with:
    - (i) All of the other retail and medical marijuana cultivation facility license(s) and retail and medical marijuana store license(s) at the former location must also apply to change to the same new location; or
    - (ii) All other retail and medical marijuana cultivation facility license(s) and medical or retail marijuana store license(s) at the former location are surrendered; or
    - (iii) The application proposes the medical or retail marijuana cultivation facility license will change to a location where another medical or retail marijuana cultivation facility is licensed.
  
- (B) *Transition permits.* Once the authority has approved a change of location application the licensee may not begin operating at the new location until operations have ceased at the old location. A licensee may temporarily operate at both the new location and former location if the licensee holds a

valid transition permit from the state licensing authority, and is in compliance with all state and local requirements.

- (h) *Relationship to other laws.* The license requirement in this article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. A license issued pursuant to this article does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have under federal law for the cultivation, possession, sale, distribution, or use of marijuana. Upon denial or revocation of a state license, any license issued under this article shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates federal law all licenses issued under this article shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (i) *Waiver.* By accepting a license issued pursuant to this article, the licensee waives any claim concerning, and releases the city, its officers, elected officials, employees, attorneys, and agents from any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients, or customers of the licensee for a violation of state or federal laws, rules, or regulations.
- (j) *Indemnification.* By accepting a license issued pursuant to this article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend, and hold harmless the city, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the marijuana business that is the subject of the license.
- (k) *Inactive licenses.* The city may revoke or elect not to renew any license if it determines that the licensed premises has been inactive for at least one (1) year.
- (l) *No vested rights.* Notwithstanding anything contained in this article, an applicant or licensee issued a license authorized by this article has no vested right to the license or the renewal of a license, and no property right in the license or the renewal of a license.

**Sec. 8-2210. – Marijuana delivery permits**

- (a) Subject to the Colorado Marijuana Code and Chapter 8 of this code, marijuana delivery permits may be issued to:
  - (1) Medical marijuana stores to accept orders for delivery of regulated marijuana to patients at a private residence by a medical marijuana transporter with a valid delivery permit; or

- (2) Medical marijuana transporter to contract with a medical marijuana store with a valid delivery permit to deliver regulated marijuana to private residences of patients.
- (b) *Operational requirements.* In addition to the provisions applicable to all licenses, a marijuana delivery permit holder shall comply with the following provisions:
- (1) Marijuana delivery permittees shall use an electronic scanner to scan the ID of the person to whom the regulated marijuana is being delivered at the point of transferring any regulated marijuana to the customer or patient.
  - (2) Marijuana delivery permittees shall retain a copy of the marijuana delivery permit in the delivery motor vehicle while conducting deliveries of regulated marijuana and exhibit the permit at the requests of any law enforcement officer, inspector of the city, or other city official.
  - (3) All persons in the delivery motor vehicle shall be required to hold and properly display an identification badge issued by the state licensing authority while conducting deliveries of regulated marijuana. Proper display of the identification badge requires the wearing of the badge in a plainly visible manner, at or above the waist, and with the photo of the individual visible. The badge shall not be altered, obscured, damaged, or defaced in any manner.
  - (4) Marijuana delivery permittees shall keep a record of sale, such as a receipt, for all regulated marijuana contained in their vehicle. An enclosed delivery motor vehicle shall not contain more than five thousand dollars (\$5,000.00) in retail value of regulated marijuana. A delivery motor vehicle that is not enclosed shall not contain more than two thousand (\$2,000.00) in retail value of regulated marijuana.
  - (5) Marijuana delivery permittees shall not deliver more regulated marijuana to a person than the amounts set forth in state law per day, nor shall the permittee deliver to a person or primary residence if the permittee knows or reasonably should know the person or primary residence has already received a delivery during the same business day. This does not prohibit delivery of regulated marijuana to another person at the residence at the same time.
  - (6) Marijuana delivery permittees shall not deliver any marijuana products to residences or businesses outside of the jurisdiction of the city, nor deliver any marijuana products from outside the jurisdiction of the city to residences or businesses inside the city.
  - (7) Marijuana delivery permits shall apply to only one medical marijuana store except that a single medical marijuana delivery permit may apply to multiple medical marijuana stores within the city that are identically owned.

**Sec. 8-2211. – Marijuana transporter licenses.**

In addition to the provisions of Chapter 8 of this code and the Colorado Marijuana Code applicable to all licenses, all marijuana transporter licensees must comply with:

- (a) Medical marijuana transporter licensees shall not possess unsealed packages or containers of marijuana products on the licensed premises.
- (b) Medical marijuana transporter licensees shall not open sealed packages or containers of marijuana products.
- (c) Medical marijuana transporter licensees shall not re-package marijuana products on the licensed premises.
- (d) Medical marijuana transporter licensees shall not sell, cultivate, manufacture, process, test, or consume marijuana products on the licensed premises.
- (e) Medical marijuana transporters that do not have a licensed premise within the city shall not temporarily store marijuana products or otherwise exercise any license privileges for which a licensed premise would be required.

**Sec. 8 -2212. – Marijuana off-premises storage facility permits.**

- (a) *Off-premises storage.* A medical or retail marijuana store, medical marijuana transporter, medical or retail marijuana cultivation facility, medical or retail marijuana products manufacturer, or medical or retail marijuana testing facility with a valid marijuana business license may apply for an off-premises storage permit to store finished goods and inventory belonging to the corresponding license, subject to the provisions of Chapter 8 of this code and the Colorado Marijuana Code.
- (b) *Operational requirements.* All medical and retail off-premises storage facility permittees shall comply with:
  - (1) The off-premises storage facility shall constitute an extension of the marijuana business's licensed premises and shall comply with all state and local laws and regulations applicable to the corresponding marijuana business license type.
  - (2) Except as provided herein, an off-premises storage facility shall not possess unsealed packages or containers of marijuana products on the licensed premises, open sealed packages or containers of marijuana products on the licensed premises, or re-package marijuana products on the premises. A marijuana store with a valid delivery permit may use its own off-premises storage facility permit to package, label, and fill orders for delivery of regulated marijuana to a patient after the marijuana store receives an order for delivery.
  - (3) A marijuana off-premises storage facility permittee shall not sell, cultivate, manufacture, process, test, or consume marijuana products on the licensed premises.



- (4) Off-premise storage facility permits shall only be issued by the city for premises within the City.
  - (5) Any marijuana licensee utilizing an off-premises storage premises outside of the City of Commerce City shall notify the Authority of the use of such premises within 14 days of the issuance of an off-premises storage permit by a jurisdiction other than the City of Commerce City.
  - (6) Any marijuana licensee utilizing an off-premises storage premises outside of the City of Commerce City shall consent to the inspection of such facility on request by any city official, inspector, or police officer.
- (c) *Number of permits.* No more than one (1) off-premises storage facility permit may be issued to each eligible licensee, regardless of the off-premises storage facility's location.

**Sec. 8-2213. – Marijuana research and development licenses**

*Licensing requirements.* In addition to the provisions applicable to all licenses, all medical research and development facility licensees shall comply with:

- (a) Marijuana research and development licensees that plant, grow, harvest, store, dry, trim, or process regulated marijuana shall ensure their licensed premises is completely encompassed within the licensed premises of a marijuana cultivation facility.
- (b) Marijuana research and development licensees that manufacture or process regulated marijuana shall ensure that all manufacturing and processing activities are conducted in compliance with all state and local laws and regulations related to marijuana products manufacturers.
- (c) All marijuana research and development licensees shall submit to the authority a copy of every research project approved by the state licensing authority.
- (d) Marijuana research and development licensees shall not permit the consumption of marijuana production on the license premises unless the consumption occurs pursuant to an approved research project in compliance with state and local laws and regulations.
- (e) Marijuana research and development licensees shall not sell or transfer regulated marijuana from the licensed premises unless the sale or transfer is made to another medical marijuana research and development license or the sale is made pursuant to an approved research project and in compliance with all state and local laws and regulations.

**Sec. 8-2214. – Fees.**

- (a) *Fees.* All fees, including, without limitation, application, inspection, license, permit, and late filing fees, shall be paid to the city in the amount established by resolution of the city council.
- (b) *Time of payment.* All fees shall be payable at the time an application is submitted to the city clerk.

- (c) *Payment required.* No license shall be issued until after the payment of the fees required by this article.
- (d) *Refunds.* All fees shall be nonrefundable, except, at the clerk's discretion, license and permit fees may be refunded only if the license or permit is denied as being facially incomplete when the application is initially submitted. Neither the suspension, revocation, or expiration of a license or permit, the withdrawal or denial of an application, the conditional approval of an application not acceptable to the applicant, the lapse of an approval prior to issuance of a license, nor any termination of an application, license, permit, or business for any other reason shall justify the refund of any fees.

### **DIVISION 3. OPERATIONAL REQUIREMENTS**

#### **Sec. 8-2300. - Compliance with applicable laws; application of division.**

Licensees shall comply with, and conduct their business in compliance with, all applicable state and local laws and the terms of their licenses. Any violation of this division shall be enforceable as a civil infraction, except where designated as a misdemeanor. In addition, the provisions of this division shall be considered to be conditions of any license and a violation of these provisions by a licensee or on its premises may constitute grounds for the authority to impose administrative penalties as the authority deems appropriate.

#### **Sec. 8-2301. - On-site consumption prohibited.**

Except for licenses, permits, and conditions this code and the Colorado Marijuana Code explicitly allows, no person shall smoke, eat, or otherwise consume or ingest marijuana on the premises of any marijuana business. No person shall consume alcoholic beverages on the premises of any marijuana business. No licensee shall allow or suffer marijuana to be smoked, eaten, or otherwise consumed or ingested outside the provisions of this code and the Colorado Marijuana Code, or to allow an alcoholic beverage to be consumed upon its business premises. Violation of this section shall be a misdemeanor.

#### **Sec. 8-2302. - Age restrictions and required verifications.**

- (a) *Age restrictions.* No person under the age of twenty-one (21) shall be permitted to enter or remain on the property of any marijuana business. Notwithstanding the foregoing, a person who is at least eighteen (18) years of age and in possession of a valid registry identification card shall be permitted on the property of a licensed medical marijuana store. Violation of this subsection (a) shall be a misdemeanor.
- (b) *Age verifications.* Retail marijuana and medical marijuana stores shall provide a separate reception area for verification of age. Licensee shall verify the proof of age of every person entering the business with an electronic identification scanner. Marijuana transportation businesses shall use an electronic identification scanner to verify the age of the person receiving a marijuana delivery prior to transferring any regulated marijuana to the customer or patient. An electronic identification scanner is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes. Any person who fails to produce picture identification or whose picture identification cannot be verified by the electronic identification scanner shall be required to immediately leave the business premises.

- (c) *Receipts.* All receipts for the sale of retail marijuana to consumers must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."

**Sec. 8-2303. - Display of licenses and contact information.**

- (a) *Licenses.* The certificate of occupancy and all licenses or permits issued under this article shall be posted prominently near the front entry of the business premises and shall be displayed at all times.
- (b) *Contact information.* The name and contact information for the owner(s) and business manager(s) shall be posted prominently near the front entry of the business premises and shall be displayed at all times. Licensees shall provide a copy of this notice to the city and shall update the information, both at the business and with the city, as necessary.

**Sec. 8-2304. - Hours of operation.**

- (a) *Retail marijuana stores.* Retail marijuana stores may only be open to the public between the hours of 8:00 a.m. and 10:00 p.m. daily. It shall be unlawful for any sales or other distribution of marijuana to occur upon the premises outside of these hours. Business hours shall be posted at the entrance to the business.
- (b) *Medical marijuana stores.* Medical marijuana stores may only be open to the public between the hours of 8:00 a.m. and 10:00 p.m. daily. It shall be unlawful for any sales or other distribution of marijuana to occur upon the premises outside of these hours. Business hours shall be posted at the entrance to the business.
- (c) *Cultivation, manufacturing, and testing businesses.* Marijuana businesses which cultivate, manufacture, or conduct testing may conduct such business operations on the licensed premises at any time.
- (d) *Marijuana transportation businesses.* Marijuana transportation businesses may only deliver to private residences and medical marijuana businesses between the hours of 8:00 a.m. and 10:00 p.m. Marijuana transportation businesses may operate a storage facility covered by the transportation business's license from 8:00 a.m. to 12:00 a.m.

**Sec. 8-2305. - Sales to the public.**

All sales to the public shall be made in person and on the licensed premises of the marijuana business unless a licensed marijuana transportation business is used for off-site delivery. Conveyance of all marijuana or marijuana products shall occur on the licensed premises of the marijuana business or through the use of a licensed marijuana transportation business. No drive-thru or walk-up sales shall be permitted.

**Sec. 8-2306. - Public access restricted.**

Marijuana businesses which cultivate, manufacture, or conduct testing shall not be open to the public. All visitors must be tracked in an entry log identifying the visitor's name, entry and

departure times, and purpose of the visit. Visitors must be escorted by a manager or owner at all times.

**Sec. 8-2307. - Reporting requirements.**

(a) *Reports to the authority.* Licensees shall provide the authority with:

- (1) Notice of a transfer or change of financial interest, business manager, or financier at least thirty (30) days before the proposed transfer or change;
- (2) Except for minor traffic infractions, notice of any citation for a violation of any law issued to any licensee within seventy-two (72) hours of the violation;
- (3) Notice of the receipt of a notice of potential violation of any law involving the licensee or the license within seventy-two (72) hours of receiving such notice; or
- (4) A copy of any report that the licensee is required to provide to the state licensing authority within twenty-four (24) hours of filing the report with the state.

(b) *Reports to the police department.* A licensee shall report all criminal activities or attempted criminal activity that occurs on the business premises or which are related to the licensed business to the city's police department within twelve (12) hours of occurrence. A violation of this subsection (b) by a licensee with actual knowledge of criminal activity or attempted criminal activity shall be a misdemeanor.

**Sec. 8-2308. - Activities to occur indoors.**

All marijuana production, manufacturing, cultivation, and sales shall occur indoors and shall not be visible from the exterior of the building. All marijuana, marijuana products, marijuana accessories and paraphernalia shall be kept indoors, except as allowed under this code and the Colorado Marijuana Code, and shall not be visible from the exterior of the building. All marijuana or marijuana products ready for sale shall be in a sealed or locked cabinet except when being accessed for distribution.

**Sec. 8-2309. - Premises management.**

No marijuana business shall be operated unless an owner or business manager is present. An owner or business manager shall be on the licensed premises and responsible for all activities within the licensed business during all times when the business is operating.

**Sec. 8-2310. – Premises alterations.**

A licensee or permittee shall not make any physical change or modification of the licensed or permitted premises that materially or substantially alters the premises or its use from the plans originally approved by the authority without the authority's approval. All applications to modify the premises of a marijuana business must be made through an application approved by the authority and include any supplemental materials the authority deems necessary to implement or enforce Chapter 8 of this code and the Colorado Marijuana Code. The authority shall deny any application for modification of a marijuana business that would decrease the distance between the nearest external portions of the building the marijuana business is located in and a site or area

protected by proximity or location restrictions in Chapter 8 of this code or the Colorado Marijuana Code.

**Sec. 8-2311. - Odor control.**

- (a) All businesses shall be equipped with a system that ensures that no marijuana odor is detectable from the exterior of the business or from within any adjoining premises. Approval of the odor removal system by the building official is required prior to any business being operated. The building official's determination of the adequacy of any proposed odor-removing system shall be based on his reasonable determination of the ability of the proposed system to remove odors as required by this section, which determination shall be based upon the manufacturer's or an engineer's design specifications for the system as they relate to the premises in question.
- (b) No marijuana odor shall be detectable from the exterior of any business or from any adjoining premises.

**Sec. 8-2312. - Use of gas products.**

No Licensee shall use or permit the use of any gas product on or in the licensed premises, the use of which is regulated by the building or fire codes, for any reason unless such use has been disclosed to, and approved by, the building official and the fire department. A violation of this section shall be a misdemeanor.

**Sec. 8-2313. - Right of entry and inspection.**

No person shall refuse entry to, or in any manner interfere with the inspection of the licensed premises by any federal, state or local inspector who is either permitted or required to inspect the licensed premises, if such entry is attempted during business hours or during reasonable hours after business hours when there are employees on the premises to admit the federal, state or local inspector. Entry and inspection shall be permitted not only to areas open to the public, but also to all other areas where business is conducted, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous, if the employee informs the inspector of the perceived danger.

**Sec. 8-2314. - Prompt response to city officials required.**

Neither a licensee nor any person acting as an agent or employee of a licensee shall fail to respond by phone or email within twenty-four (24) hours of contact by a city official concerning its business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which the licensee does not respond shall constitute a separate violation.

**Sec. 8-2315. - Failure to cooperate.**

Neither a licensee nor any person acting as an agent or employee of a licensee shall refuse or fail to cooperate with any city official who is investigating any allegation of unlawful conduct on the licensed premises.

**Sec. 8-2316. - Posting and display of notice.**

Any notice required to be posted under state or local law shall be posted in a conspicuous place, on the licensed premises, that is accessible by and plainly visible to the general public. Licensees and applicants shall assist in the placement of such notice and shall ensure that such notice is displayed prominently and continuously during the notice period.

**Sec. 8-2317. - Bank accounts and audits.**

- (a) *Separate bank accounts.* The revenues and expenses of a marijuana business shall not be commingled in any bank account with the deposits or disbursements of any other business or person.
- (b) *Audits.* The city may require an audit to be made of the records and accounts of a marijuana business on such occasions as it may consider appropriate or necessary. Licensees shall fully cooperate with city officials in the conduct of any audit.

**Sec. 8-2318. - Cultivation facilities organization.**

Unless otherwise approved by the fire district and building official, all cultivation facilities shall be organized in orderly rows with unobstructed aisles that are at least three (3) feet wide. There shall be no more than eight (8) feet between aisles or between an aisle and a wall. Clear access to all exits must be maintained at all times.

**Sec. 8-2319. - Co-location and separation of businesses.**

More than one (1) marijuana business may be operated from the same location provided that all of the requirements of this article and the Colorado Marijuana Code are met. Each business shall maintain its own distinct license. The businesses shall obtain and keep all delivery documents and manifests for movement of any marijuana or marijuana product between the co-located businesses.

**Sec. 8-2320. – Fire barriers.**

Unless higher performance is required by applicable law, there must be a minimum of one-hour fire-resistive rated fire barriers between a marijuana business and any adjacent business.

**DIVISION 4. UNLAWFUL CONDUCT**

**Sec. 8-2400. - Unlawful acquisition.**

No person shall buy, sell, transfer, give away or acquire marijuana in violation of state law or this code. A violation of this section shall be a misdemeanor.

**Sec. 8-2401. - Registry identification card misuse.**

No person shall use the registry identification card of another. No person shall knowingly allow, or fail to prevent, the use of his or her registry identification card by any other person. A violation of this section shall be a misdemeanor.

**Sec. 8-2402. - Growing or possessing marijuana without a license.**

Except as specifically authorized by law, no person shall cultivate or manufacture marijuana or possess more than one (1) ounce of a usable form of marijuana on any commercial or industrial property unless licensed in accordance with this article.

**Sec. 8-2403. - Unlawful leases and uses of property.**

No person shall lease or allow the use of any portion of the building to be used as a marijuana business unless the tenant has a valid marijuana business license. In the event that the city has an articulable reason to believe that a marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected marijuana business is located to determine whether any marijuana is on the premises. A violation of this section shall be a misdemeanor.