

WORKING DRAFT – PROPOSED MARIJUANA CODE UPDATES

ORDINANCE NO. _____

INTRODUCED BY: _____

AN ORDINANCE AMENDING 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; and

WHEREAS, in enacting Ordinance No. 2050, the City Council established the Local Marijuana Licensing Authority of the City of Commerce City (the “Authority”), and vested the Authority with the ability to create and administer its own procedural rules, among other powers;

WHEREAS, the City’s regulations, including any procedural rules promulgated by the Authority, must be current and consistent with the state’s laws, rules, and regulations governing marijuana businesses;

WHEREAS, state laws, rules, and regulations regulating marijuana businesses have since been modified, and staff recommends that Article II of Chapter 8 of the Commerce City Revised Municipal Code be updated, as set forth in the attached Exhibit A;

WHEREAS, staff also recommends amending Article II of Chapter 8 of the Municipal Code for the purpose of formally codifying various provisions of the Authority’s existing rules of procedure into the Code; and

WHEREAS, the Council has determined that the proposed amendments are in the best interests of the City and its citizens.

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

SECTION 1. That Chapter 8, Article II of the Commerce City Revised Municipal Code is hereby repealed and reenacted as shown in Exhibit A, attached and incorporated by reference.

SECTION 2. The City Council finds and declares that this ordinance is reasonable and necessary to protect the public health, safety, and welfare.

SECTION 3. Except as specifically modified herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect. Any ordinances of the City of Commerce City inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

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INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS _____ DAY OF _____, 2021

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS _____ DAY OF _____, 2021.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

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EXHIBIT A

ARTICLE II. - MARIJUANA BUSINESSES

DIVISION 1. - GENERAL PROVISIONS

Sec. 8-2100. – Purpose and intent.

~~This article is enacted for the purpose of implementing the provisions of C.R.S. tit. 12, arts. 43.3 and 43.4, and regulating the businesses authorized by those laws in a manner that best protects the health, safety and welfare of the public. Nothing in this article is intended to promote or condone the cultivation, manufacturing, sale, distribution, possession or use of marijuana in violation of any applicable law.~~

~~Sections 14 and 16 of article XVIII of the Colorado Constitution and C.R.S. tit. 44, arts. 11 and 12 afford to localities the option of licensing marijuana establishments within their respective jurisdictions. The purpose of this article is to authorize licensing, and regulating marijuana related establishments in the city pursuant to the requirements of state law and this article, and designate a local licensing authority to issue and process applications submitted for such licenses within the city. This article is adopted pursuant to the aforementioned constitutional and statutory authority, as well as the city's plenary authority as a home rule city to adopt and enforce ordinances under its police power in order to preserve the public health, safety, and general welfare. 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.~~

Sec. 8-2101. – Definitions.

~~Unless specifically defined otherwise below, the words and phrases used in this article shall have the meanings set forth in the medical marijuana code and the retail marijuana code, as those terms are defined herein. The definitions set forth in subsections 14(1) and 16(2) of article XVIII of the Colorado Constitution, as well as the definitions in the Colorado Medical Marijuana Code, the Department of Revenue Marijuana Enforcement Division Medical Marijuana Rules, 1 CCR 212-1, M 103, the Colorado Retail Marijuana Code, and the Department of Revenue Marijuana Enforcement Division Retail Marijuana Rules, 1 CCR 212-2, R 103, 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.~~

~~*Administrative application* means any license-related application for which a public hearing is not required by state liquor laws.~~

~~*Applicant* means any person who has submitted an application for a license or renewal of a license 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.~~

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Authority or marijuana licensing authority means the local licensing authority for the city.

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.

Cultivation or cultivate means the process by which a person grows a marijuana plant.

“Good cause” for purposes of approving, refusing, suspending, revoking, or denying the issuance or renewal of a license means:

- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of the municipal code or state law pertaining to marijuana businesses, 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;
- (b) The licensee or applicant has failed to comply with any special terms or conditions placed on the license by order of the state licensing authority or the local licensing authority, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings;
- (c) 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
- (d) The applicant or licensee, or any officer, director, owner, shareholder, manager, agent, or employee of the applicant or licensee is not of good moral character.

Evidence to support a finding of good cause can include, but may not be limited to the following:

- (1) Failure to pay all required fees;
- (2) Lateness or delinquency on payments to the city of taxes, fines, or penalties assessed against or imposed upon the licensed business;
- (3) The making of a false statement or misrepresentation as to any of the facts in the license or renewal application;
- (4) Failure to comply with any duty to supplement a license application;
- (5) Failure to file any reports or furnish any information as required relating to the operation of the marijuana establishment;
- (6) A continuing pattern of offenses against the public peace, as defined in article V of chapter 12 of this code;

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- (7) A continuing pattern of drug-related criminal conduct within the premises of the marijuana business or in the immediate area surrounding the marijuana business arising out of the operation of the establishment; or
- (8) A continuing pattern of criminal conduct directly related to or arising from the operation of the marijuana business.

“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 contained herein, except those time restrictions imposed by state law or local ordinance.

Good moral character means an individual who has a personal history demonstrating honesty, fairness and respect for the rights of others, and conformance to law. It also includes the propensities of the individual toward criminal conduct, in addition to 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), as may be amended;
- (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 or use taxes 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 establishment in conformity with applicable laws and regulations.

License means a document issued by the city officially authorizing the operation of a marijuana business pursuant to this article.

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.

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Licensee means the marijuana business named on the marijuana business license, and all individuals named in the marijuana business license 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.

Marijuana business or *business* means any medical marijuana business and any retail marijuana business.

Medical marijuana business means a medical marijuana center, optional premises cultivation operation, and medical marijuana-infused products manufacturer.

Medical marijuana code means ~~title 12, article 43.3~~ title 44, article 11 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

“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.

Resident for purposes of determining the neighborhood needs and desires means an owner or manager of a business, excluding the landlord, sublandlord, or property owner of the proposed premises and the applicant, located within the neighborhood boundaries set by the city clerk.

Retail marijuana business means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, and a retail marijuana testing facility.

Retail marijuana code means ~~title 12, article 43.4~~ title 44, article 12 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

Secretary means the city clerk of the city or designee.

Sec. 8-2102. – Relationship to other laws.

The city intends to follow and incorporate all requirements and procedures set forth in this code, any procedural rules that may be enacted by the marijuana licensing authority, and the state medical marijuana code and retail marijuana code. 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 as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the charter of the city. Where these regulations conflict with the state regulations, the city regulations shall apply. To the extent that any procedural rules adopted by the city’s marijuana licensing authority conflict with the city’s ordinances regulating marijuana related businesses, the City’s ordinances will govern. Licensees shall comply with, and conduct their business in compliance with, all applicable state and local laws, rules and regulation, and the terms and conditions of their license.

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Sec. 8-2103. – Marijuana licensing authority.

~~The marijuana licensing authority is hereby established to 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 all the powers and authority granted to the local marijuana licensing authority by the medical and retail marijuana codes as well as those explicitly granted or reasonably inferred by this code. The marijuana licensing authority's powers shall include, but shall not be limited to, the authority to create its own procedural rules, administer oaths, and to issue subpoenas to require the presence of persons or the production of documents, books and records necessary to the determination of any hearing.~~

- (a) *Establishment of authority.* For the purpose of regulating and controlling the licensing and sale of marijuana in the city, there is hereby created the marijuana licensing authority, which 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 local marijuana licensing authority shall have the final authority of review and approval on all such matters relating to the licensing and sale of marijuana in the city.
- (b) *Powers of licensure; generally.* The marijuana licensing authority has the authority to grant, refuse, summarily suspend, or revoke any license as authorized by this article. The marijuana licensing authority may also order special terms and conditions on licenses without the need for a public hearing.
- (c) *Rules of procedure.* In order to properly administer and enforce this article, the marijuana licensing authority may promulgate such procedural rules as he or she deems necessary. The marijuana licensing authority may create and amend its own procedural rules without the approval of the city council, provided however that such rules shall remain procedural in nature. 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 Retail Marijuana Code, subsection 5(e) of section 16 of article XVIII of the Colorado Constitution, the Colorado Department of Revenue Marijuana Enforcement Division Retail Marijuana Rules, (1 CCR 212-2), the Colorado Medical Marijuana Code, section 14 of article XVIII of the Colorado Constitution, the Colorado Department of Revenue Medical Marijuana Enforcement Division Medical Marijuana Rules, (1 CCR 212-1), the city's Municipal Code and any rule or regulation adopted pursuant thereto. The 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 state medical and retail marijuana codes.

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Sec. 8-2104. – 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. 8-2105. - 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 the terms of this article or any provision of the medical or retail marijuana codes, as applicable, shall be subject to such administrative penalties as the authority deems appropriate, including without limitation the suspension, revocation or denial of his/her/its license and the imposition of a fine. A conviction shall be grounds for, but shall not be required prior to, the authority taking action against the license.

DIVISION 2. – APPLICATION AND LICENSING

Sec. 8-2200. – Licensure required.

It is unlawful for any person to operate a marijuana establishment in the city without obtaining a local license to operate. A valid license from the State of Colorado is also required. The license requirements in this code 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. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. Upon denial or revocation of a state license, any license issued under these regulations 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 these regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

~~Sec. 8-2200.~~ Sec. 8-2201. - Prohibited licensees.

In addition to the prohibitions set out in state law, a license 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. 8-2202. – General application requirements.

- (a) *General.* All applicants and licensees shall follow the procedures set forth in this article and any rules promulgated thereunder, as well as the state medical and retail marijuana codes and regulations pertaining to license applications.
- (b) *Local license application requirements.* All applicants shall submit to the secretary a local license application, including the local background investigation and any associated key

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person and other application or renewal forms submitted to the State. The applicant shall also provide any information that is deemed necessary by the authority in connection with the investigation and review of the application regarding the applicant.

(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 secretary.

~~Sec. 8-2201.~~ Sec. 8-2203. - Letter of intent and pre-application meeting.

Prior to the submission of an application for a new license, 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 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. 8-2202.~~ Sec. 8-2204. - Applications.

- (a) *Form and filing.* All applications shall be filed with, and on the forms approved by, the city clerk. The city clerk shall review the applications and ensure that they are complete. If complete, the city clerk shall promptly submit the application to the authority for action.
- (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 shall include plans and specifications for the premises to be licensed, a security plan, evidence establishing the applicant's right to possess such 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 forty-five (45) days but not more than ninety (90) days prior to the expiration of the license. If the licensee fails to apply for renewal at least forty-five (45) days prior to the expiration of the license but does apply prior to the expiration of the license, 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, but instead shall require the applicant file a new license application.

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- (d) *Incomplete and untimely applications.* No application shall be considered which is not complete in every detail in the opinion of the city clerk. Incomplete applications may be returned to the applicant for completion or correction without any further action. It is the licensee'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 to be issued or renewed prior to an expiration date because of a late, incomplete or defective application. **The application shall not be deemed “received” by the secretary until all items in the application are complete and any and all additional documents required have been received by the secretary.**

~~Sec. 8-2203.—~~ **Sec. 8-2205.** - Review—New license applications.

- (a) *Neighborhood boundaries.* The city clerk shall set the boundaries of the relevant neighborhood **for new applications**, taking into account boundaries previously established for marijuana business licenses in the area. The city clerk shall notify the applicant of such boundaries, and those boundaries shall be deemed accepted unless a written objection is filed **with the city clerk** 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 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 city clerk.
- (b) *Petitioner requirements.* **Any petitioning 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.**
- ~~(b)~~ (c) *Hearing and notice; generally.* Upon receipt of a complete application for a new license, the authority shall schedule the matter for hearing not less than thirty (30) days from the date that the application was received by the authority. The hearing shall be open to the public and notice of such hearing shall be posted on the property and published in a newspaper of general circulation in the city not less than ten (10) days prior to the date of the hearing. **The applicant shall provide proof of posting to the secretary by affidavit and photograph. The applicant bears the burden of proving that all qualifications for licensure have been satisfied and must also satisfy the licensing authority that the residents of the affected neighborhood desire the business, that the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law.**
- (d) *Hearing and notice; applicant's notice obligations.* **No less than thirty (30) days before the hearing, the applicant will mail notice to all property owners within a 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 (7 days before the hearing) by which any comments or objections regarding the application must be received by the authority. All petitions or other**

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documents bearing on the neighborhood desires shall be submitted no later than 7 days before the date scheduled for the hearing.

- (e) *Preliminary findings.* Upon receipt of a complete application and after investigation, the secretary will make preliminary findings in writing regarding the application and shall send such findings to the applicant not less than five days prior to the date of the public hearing. The findings shall encompass the following matters, 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 marijuana business as contemplated by the application at the premises sought to be licensed 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 notice of the hearing to all property owners within a ½ mile radius of the property that is the subject of the application, in accordance with subsection (d) of this section; and
 - (5) The status of the background investigation concerning the applicant.
- (f) *Good moral character.* The licensing authority shall make a finding and determination as to the good moral character of the applicant. For the purposes of this subsection (f), the term “applicant” shall include all individuals actually identified or who are required to be identified on an application, including but not limited to officers, owners, managers, shareholders, executives, key employees, and any person(s) having a direct or indirect financial interest in the business. A determination that the applicant is not of good moral character constitutes sufficient grounds for denial of the application, regardless of other qualifications.
- ~~(e)~~(g) *Burden of proof and neighborhood desires.* For new license applications, the applicant shall bear the burden of proving that all qualifications for licensure have been satisfied and must also satisfy the authority that the residents of the affected neighborhood desire the business, that the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law. Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license 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 affecting the qualifications

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of the applicant for the conduct of the type of business proposed. In addition, the local licensing authority shall consider whether approval of the application would result in any of the following demonstrable negative impacts on the surrounding neighborhood:

- (1) An undue concentration of a certain class of retail marijuana establishment that would require the use of additional law enforcement resources;
- (2) An increase in traffic congestion;
- (3) A shortage of available parking; or
- (4) Other demonstrable negative impacts caused by the new retail marijuana establishment.

~~(d)~~ (h) *Decision; denial of application.* A license shall be issued if an application is approved. Such license may contain any condition that the authority deems necessary or appropriate to ensure compliance with state and local laws. ~~The licensing authority considers all representations made to it concerning the proposed character of applicants, the method of operation of the business, and the personal, financial, and substantive qualifications of any applicant to be material and directly affecting the decision by the licensing authority to issue or renew a license or permit. If an application is denied, the authority shall issue a written decision explaining the reasons why cause exists for the denial. Each of the following, 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 the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code or the rules and regulations adopted pursuant thereto, 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 an officer, director, 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 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 is sought;

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- (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 is sought;
- (8) The applicant employs or intends to employ a person who has not submitted fingerprints for a criminal background check; and

(9) For good cause.

- ~~(e)~~ (i) *Building occupancy.* No license 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.
- (j) *Date of License.* If granted, the license approved by the authority will issue only after the premises has been inspected by the city and will be dated as to coincide with the issuance of the state license.

~~See. 8-2204.~~ Sec. 8-2206 - Review—Renewals; other administrative applications.

- (a) *Public hearing not required.* Subject to the requirements of this code and the state retail and medical marijuana codes, the authority may grant or deny without hearing any ~~application other than an application for a new license~~ administrative application for which a public hearing is not required under state or local law. Such decision to grant or deny an administrative application shall be based solely upon the authority's review of the complete submitted materials. ~~No public hearing shall be required.~~
- (b) *Renewal applications; generally.* Renewal applications may be administratively approved by the secretary if the licensee has met the conditions of the license, has no compliance issues during the preceding year, has no history of violations, or there are no allegations against the licensee that would constitute good cause to deny the application. If a renewal application is not eligible to be administratively approved, the city shall request a renewal hearing from the authority. In addition, the city clerk may refer to the marijuana authority for decision any administrative application when, as determined by the city clerk, the public interest would be best served by the determination of the matter by the authority. Notice of the hearing shall be posted on the licensed premises in the manner described in C.R.S. § 44-10-303(2), as amended, for a period of ten (10) days and notice to the applicant shall be provided at least ten (10) days prior to the hearing.
- (c) *Expiration of License.* A marijuana establishment license is immediately invalid upon expiration of the license unless the licensee has filed a late renewal application and the licensing authority has granted an administrative continuance of the license as described above. Expiration of a marijuana establishment license for any reason, including, without limitation, failure to file a renewal application in a timely manner, shall be considered an inactive local license as described in C.R.S. § 44-10-315, as amended. A licensee whose license has expired shall not cultivate, manufacture, distribute, or sell any marijuana until

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all required licenses have been obtained. If the holder of an expired license files a renewal application after 90 days from date of expiration, the application will be treated as a new license application.

- (d) *Renewal timeline.* The licensee shall apply for renewal of the marijuana establishment license at least 30 days, but no earlier than 90 days prior to the expiration of the license.
 - (1) If the applicant fails to apply for renewal at least 30 days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application 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 licensing authority finds good cause has been shown to accept a late application as described above, it may elect to administratively continue the license beyond the expiration date while the renewal process is pending.
- (e) *Renewal application procedure.* The licensee shall apply for renewal using forms provided by the city. The application for renewal must include the supplemental information set forth below before the application will be considered complete and processed by the city.
 - (1) The yearly operating fee, and late fee if applicable, shall accompany the renewal application.
 - (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any business manager, financier, agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the 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.
 - (4) In the event the marijuana establishment license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include verification that the marijuana establishment has a valid state license and the state license is in good standing.
 - (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the details of any disciplinary actions taken

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against the licensee by any state or local jurisdiction in which the licensee holds a marijuana business license, the police report numbers or case numbers of all police calls to the marijuana establishment; and, for calls resulting in a charge of a violation of any law, ordinance or regulation, the charge, case number, and disposition of any of the charges.

(f) *Denial of renewal application.* The licensing authority may refuse or deny a license renewal for good cause, for any of the reasons set forth in [cite to “Decision; denial of application” section once finalized], 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. Nothing in these regulations limits the licensing authority’s consideration of 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.

~~(b)~~(g) *Burden of proof.* The applicant shall bear the burden of proving that all specific criteria for approval of an application have been satisfied.

~~(e)~~ (h) *Decision.* If an application is approved, the authority shall provide written notice of such approval. An 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, the authority shall issue a written decision explaining the reasons why cause exists for the denial.

~~(d)~~ (i) *Governing law.* Renewal of any marijuana business license or any administrative application is subject to the laws and regulations in effect at the time of renewal the application is filed. Renewal of a marijuana business license or approval of an administrative application is not automatic.

Sec. 8-2207. – Conduct of Application Reviews and Hearings; Generally

The following provisions shall apply to all application review and hearing processes held by the authority subject to this article, in addition to any procedural rules promulgated by the authority pursuant to its powers under this code.

(a) *Waiver or Additional Requirements.* The licensing authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations. To the extent any materials have been included with the applicant’s state license application and forwarded to the city by the state licensing authority, the licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials in conjunction with the local license application.

(b) *Parties in interest; limitation on evidence.* Only parties in interest may present evidence and testimony at hearings.

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(c) *Pre-filing of documents for hearing.* Discovery is not permitted in connection with any hearing held by the licensing authority. However, all documents, petitions or other exhibits that any party to a hearing intends to submit for consideration must be marked as exhibits and filed with the secretary and a copy provided to the opposing party at least five (5) days preceding the hearing date unless the licensing authority approves a different filing deadline.

(d) *Subpoenas.* In the event that a party seeks to request that the authority exercise its subpoena power, the party requesting the subpoena shall request the subpoena be required to personally serve the subpoena at least two business days prior to the hearing. The licensing authority may quash a subpoena if compliance is shown to be unduly burdensome, impracticable, unreasonably expensive or unnecessary.

(e) *Decision and appeals.* Unless administratively approved by the city clerk consistent with this code, the licensing authority shall issue a written decision regarding the grant or denial of any new license, renewal or transfer of ownership application within 30 days of its determination and report the decision to state licensing authority and provide a copy to the applicant. All decisions of the licensing authority are final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Sec. 8-2208. – Hearing Procedures for non-renewal, suspension, or revocation of a license and other disciplinary actions.

The following provisions shall apply to all disciplinary proceedings for non-renewal, suspension, or revocation of a license, or such other penalties authorized by this code that the authority may find appropriate, that are held by the authority subject to this article. These provisions shall apply in addition to any procedural rules promulgated by the authority pursuant to its powers under this code.

- (a) *Initiation of hearing process.* An applicant or licensee shall be entitled to a hearing, and the procedures in this article shall apply, when the licensing authority or other complainant seeks to deny renewal, suspend, or revoke a marijuana license. In the event of such proceedings, the licensing authority sits as hearing officer for the purpose of conducting the hearing. The hearing officer shall make the ultimate disposition of the matter.
- (b) *Request for show cause hearing.* An administrative hearing may be initiated by a request for a show cause hearing, supported by affidavit from a complainant that provides specifics facts indicating probable cause exists for the nonrenewal, suspension or revocation of a license. The affidavit shall set forth the alleged violation and the factual basis that supports the violation. Such request may be filed by the City Attorney's Office.
- (c) *Order to show cause and notice of hearing.* If the licensing authority on its own initiative or upon a request for show cause hearing determines that there is probable cause to believe that grounds exist for the non-renewal, suspension or revocation of a license, the licensing authority shall notify the licensee in writing of the proposed action and the basis for such action. The licensing authority shall further order the licensee to appear for a hearing on a specified date to show cause why such nonrenewal, suspension or revocation renewal

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should not occur. The hearing shall take place no later than 30 days following the issuance of such order. The licensing authority shall notify the licensee of the date time, place, and nature of the hearing. The secretary shall provide a copy of the notice and order to show cause to the City Attorney and to the licensee by first-class mail to the last mailing address of record for the licensee. Continuances must be requested in writing and may only be granted for good cause shown.

- (d) *Summary Suspension.* If the licensing authority has probable cause to believe that a licensee has deliberately and willfully violated any applicable law, rule, or regulation, or engaged in conduct which imposes an undue risk to the public health, safety, or welfare, the licensing authority may enter an order for the immediate suspension of such license, pending further investigation and hearing, for a period not exceeding 15 days.
 - (1) *Contents of Order.* Such order shall be in writing, citing the reasons for the summary suspension, and shall be served upon the licensee forthwith upon its execution, together with a notice to appear before the licensing authority or designee for a hearing to show cause why the license should not be suspended or revoked.
 - (2) *Hearing Date; summary suspension.* Hearings following a summary suspension shall take place no later than 15 days from the date upon which such order is issued. The secretary shall provide a copy of the notice and order to show cause to the City Attorney and to the licensee by personal service or by email or first-class mail to the last mailing and email address of record for the licensee. Hearings shall be scheduled and held as soon as is practicable. Continuances must be requested in writing and may only be granted for good cause shown.
- (e) *Pre-filing of documents for hearing.* Discovery is not permitted in connection with any hearing held by the licensing authority. However, all documents, petitions or other exhibits that any party to a hearing intends to submit for consideration must be marked as exhibits and filed with the secretary and a copy provided to the opposing party at least five (5) days preceding the hearing date unless the licensing authority approves a different filing deadline.
- (f) *Subpoenas.* In the event that a party seeks to request that the authority exercise its subpoena power, the party requesting the subpoena shall request the subpoena be required to personally serve the subpoena at least two business days prior to the hearing. The licensing authority may quash a subpoena if compliance is shown to be unduly burdensome, impracticable, unreasonably expensive or unnecessary.
- (g) *Conduct of hearing.* The hearing shall be recorded. Those who testify shall be placed under oath. All exhibits shall be marked.
 - (1) The licensing authority will admit exhibits and testimony if it is determined that the information is of probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The licensing authority may ask questions of witnesses. The formal rules of evidence shall not apply. The licensing authority may,

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in its discretion, limit the presentation of evidence and cross examination to prevent admission of repetitive, cumulative, incompetent or irrelevant evidence.

- (2) The city will, upon request, provide a qualified language interpreter either in person or via telephone during the hearing if either the applicant or witness has limited English proficiency.
- (3) At the close of the evidence and statements, the licensing authority may either make the determination immediately or after taking the matter under advisement. If the licensing authority determines that a violation has occurred, the licensing authority may permit the parties to submit evidence, at the hearing or in writing, not previously received that demonstrates aggravating or mitigating circumstances, along with a recommendation as to any penalty to be imposed. The licensing authority shall make findings of fact from the statements and evidence offered as to whether substantial evidence exists to support good cause for suspension, revocation, or nonrenewal of the marijuana establishment license.
- (4) If the licensing authority concludes that the license should be, denied suspended or revoked, the licensing authority shall provide the licensee with written notice of such nonrenewal, suspension or revocation, and the reasons therefore, within 20 days following the date of the hearing. The decision shall also include findings of fact, conclusions and any penalty or conditions to be imposed on the license. The decision of the licensing authority is final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(h) *Required posting of suspension and prohibited activity during suspension.* During the term of any license suspension, the licensee shall post a Notice of Suspension provided by the secretary on the premises in a conspicuous place easily viewed by passersby.

- (1) During the term of any license suspension, a marijuana establishment may not conduct any operations on the licensed premises except as described below.
 - (A) *Store Licensee.* Unless otherwise ordered, during any period of active license suspension the licensee shall not engage in the selling, serving, giving away, distribution, transfer, or transport of any product, including marijuana, marijuana product, or paraphernalia and accessories, on the licensed premises, nor allow customers to enter the licensed premises.
 - (B) *Cultivation Facility Licensee.* Unless otherwise ordered, during any period of active license suspension the licensee shall not sell, distribute, transfer, transport, or otherwise remove any marijuana or marijuana product from the licensed premises. However, the licensee may maintain on hand inventory and otherwise care for its marijuana product and plant inventories during the period of suspension.
 - (C) *Product Manufacturing Facility Licensee.* Unless otherwise ordered, during any period of active license suspension the licensee shall not manufacture any

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marijuana product or concentrates, nor permit the selling, distribution, transfer, or transport of marijuana or marijuana product on or from the licensed premises.

(D) *Testing Facility Licensee.* Unless otherwise ordered, during any period of active license suspension the licensee shall not receive any marijuana for testing, perform any testing on marijuana, or otherwise transfer or transport any marijuana or marijuana product on or from the licensed premises.

(2) *Removal or destruction prohibited.* During any period of active license suspension, marijuana and marijuana product shall not be removed from the licensed premises or destroyed except under the supervision of the Police Department as ordered by the licensing authority.

(h) *Other disciplinary actions; sanctions; penalties.* Aside from suspension, revocation, or nonrenewal, upon finding a violation of law, the authority has the power and authority to impose disciplinary actions, sanctions, and penalties upon a licensee, that may include additional terms and conditions on the license, or a fine in lieu of a suspension, for any violation by the licensee or by any of the agents or employees of the licensee of any applicable state and local law and the rules and regulations adopted pursuant thereto, in addition to any other penalties prescribed by the City Code.

~~Sec. 8-2205.~~ Sec. 8-2209. - Licenses and permits.

- (a) *License required.* No person shall operate a marijuana business within the city unless all required state and local licenses are in full force and effect.
- (b) *Term of license.* A marijuana business license shall be valid for a period of one (1) year from the date of issuance. A marijuana business license is immediately invalid upon expiration of the license, unless the applicant has filed, and the city has accepted, a renewal application and the authority has determined to continue the license beyond the expiration date while the renewal process is pending.
- (c) *Extraction permit required.* No person shall conduct any extraction in conjunction with a marijuana business unless ~~the authority~~ the building official has issued an extraction permit and such permit is in full force and effect at the time of the extraction.
- (d) *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 other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license.
- (e) *Business premises.* A separate license is required for each premises in which a marijuana business is operated. It is unlawful for any person to operate a marijuana business on any premises not licensed by the city. No two businesses may be operated on a single licensed premises.

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- (f) *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.
- (g) *License nontransferable and nonconvertible.* A marijuana business license may not be converted to any other marijuana business license and shall not be transferable or assignable to a different premises ~~or to a different owner,~~ to a different type of business (including another marijuana business), or to a different owner or licensee. A marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this article.
- (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 or, in the case of a license approved for a facility that has not been constructed, such facility has not been issued a certificate of occupancy and placed in operation within two (2) years after the approval of the license application.

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- (1) *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. 8-2206.~~ Sec. 8-2210. - 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 ~~application and late filing~~ fees shall be nonrefundable; ~~provided however that~~ license and permit fees ~~shall may~~ be refunded only if the license or permit is denied ~~at the time of initial application~~. In the event of a suspension or revocation of a license or permit, or termination of business for any reason whatsoever, no portion of the ~~license~~ fees shall be refunded.

DIVISION 3. - OPERATIONAL REQUIREMENTS

Sec. 8-2300. - Compliance with applicable laws.

Licensees shall comply with, and conduct their business in compliance with, all applicable state and local laws and the terms of their licenses.

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

It shall be unlawful for a person to smoke, eat, or otherwise consume or ingest marijuana or to consume any alcoholic beverages on the premises of any marijuana business, and it shall be unlawful for any licensee to allow marijuana to be smoked, eaten, or otherwise consumed or ingested or to allow an alcoholic beverage to be consumed upon its business premises.

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

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identification card shall be permitted on the property of a licensed medical marijuana center.

- (b) *Age verifications.* Retail marijuana stores and medical marijuana centers 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. 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 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. No sales or other distribution of marijuana shall occur upon the premises outside of these hours. Business hours shall be posted at the entrance to the business.
- (b) *Medical marijuana centers.* Medical marijuana centers may only be open to the public between the hours of 8:00 a.m. and 7:00 p.m. daily. No sales or other distribution of marijuana shall 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.

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

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All sales to the public shall be made in person and on the licensed premises of the marijuana business. Conveyance of all marijuana or marijuana products shall occur on the licensed premises of the marijuana business. Absolutely no off-site delivery or drive-through service 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.* Licensees 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.

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. Similarly, all marijuana, marijuana products, marijuana accessories and paraphernalia shall be kept indoors 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.

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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. - Odor control.

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.

Sec. 8-2311. - Use of gas products.

Licensees shall not 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.

Sec. 8-2312. - 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. 8-2313. - Prompt response to city officials required.

A licensee shall 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. 8-2314. - Posting and display of notice.

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Any notice which is required to be posted under the state or local law shall be posted in a conspicuous place on the licensed premises. 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. 8-2315. - 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. 8-2316. - 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. 8-2317. - Co-location and separation of businesses.

It is lawful for more than one (1) marijuana business to be operated from the same location ("co-location") provided that all of the requirements of this section are met.

- (1) *Separate licenses.* Each business shall maintain its own distinct license.
- (2) Reserved.
- (3) Reserved.
- (4) *Records.* The businesses shall obtain and keep all delivery documents and manifests for movement of any marijuana or marijuana product between the co-located businesses.

DIVISION 4. - UNLAWFUL CONDUCT

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Sec. 8-2400. - Unlawful acquisition.

It is unlawful for any person to buy, sell, transfer, give away or acquire marijuana in violation of state law or this code.

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

It is unlawful for any person to use the registry identification card of another. It is unlawful for any person to knowingly allow, or fail to prevent, the use of his or her registry identification card by any other person.

Sec. 8-2402. - Failure to cooperate.

It shall be unlawful for any licensee to refuse or fail to cooperate with any city official who is investigating any allegation of unlawful conduct on the licensed premises.

Sec. 8-2403. - Growing or possessing marijuana without a license.

Except as specifically authorized by law, it shall be unlawful for any person to 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. 8-2404. - Unlawful leases and uses of property.

It shall be unlawful for the owner of a building to lease space 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.