

## **CHAPTER 6.70. MARIJUANA STORES**

### **Sec. 6.70.010. Purpose and legislative intent.**

Section 16 of article XVIII of the state constitution, also commonly known as Amendment 64 of 2012, authorizes a system of state licensing for businesses engaging in the cultivation, testing, manufacturing, and retail sale of marijuana, collectively referred to as "marijuana establishments" by the constitution. Subsection 16(5)(f) of article XVIII of the state constitution allows localities, within their respective jurisdictions: to prohibit operation of marijuana establishments; to regulate the time, place, and manner in which marijuana establishments may operate; and to limit the total number of marijuana establishments. The authority of localities to prohibit or regulate marijuana establishments within their respective jurisdictions, including the authority to engage in local licensing of marijuana establishments, is also reflected in various provisions of the state marijuana code, C.R.S. title 44, article 10, and other provisions of state law and regulations. The purpose of this chapter is to exercise the authority of the city to allow state-licensed marijuana establishments to exist in the city in accordance with applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth herein. This chapter is adopted pursuant to the aforesaid 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.

(Code 2009, § 6.70.010; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2019-34, § 2, 6-25-2019; Ord. No. O-2020-40, § 7, 10-13-2020)

### **Sec. 6.70.020. Definitions.**

The definitions set forth in subsection 16(2) of article XVII of the state constitution, the state marijuana code, C.R.S. § 44-10-103, as amended, the regulations thereto at 1 CCR 212-3, as amended, shall apply equally to this chapter, unless the context clearly indicates otherwise. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person who has submitted an application for a license to operate a retail marijuana establishment to the local licensing authority.

*Cap* means the cap on the number of licenses in the city as described in section 6.70.070.

*Good cause*, for purposes of refusing or denying a license renewal, 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 any applicable state or local law, or any rule and regulation adopted pursuant thereto, related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marijuana;
- B. The licensee or applicant has failed to comply with its approved plans or any special term or condition placed on the license by order of the state licensing authority or the local licensing authority;
- C. Evidence the licensed premises have been operated in a manner that adversely affects the public health, safety, or the general welfare of the city or the immediate neighborhood where the establishment is located, which evidence may include a continuing pattern of violations of the terms and conditions of a license issued pursuant to this chapter, a continuing pattern of unlawful or violent

activity occurring in the location and in association with the operation of the business, or other violations of this Code; or

- D. Evidence the licensee, or any principal officer, any person required to request a finding of suitability by state law or administrative rule, ~~manager~~, agent, or employee of the license is not of good moral character or has violated any provision of this chapter or committed any unlawful act under this chapter.

*License* means a revocable privilege to lawfully operate a marijuana establishment pursuant to this chapter.

*Licensed premises* means the premises specified in an application for a license under this chapter, which are owned or will be in the possession of the licensee and within which the licensee is authorized to sell, or permit the consumption of, marijuana in accordance with all applicable laws.

*Licensee* means a person licensed pursuant to this chapter.

*Limited access area* means a building, room, or other contiguous area upon the licensed premises where marijuana is stored, weighed, or packaged, under control of the licensee.

*Liquid assets* means assets that can be readily converted into cash, and includes assets that will be placed directly into the marijuana ~~store~~establishment. The term "liquid assets" includes, but is not limited to, funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, United States savings bonds, furniture and equipment, marijuana prepared for sale, and related products and inventory to be transferred to the marijuana store. The term "liquid assets" does not mean household items, vehicles, marijuana plants, or real property or improvements thereto.

~~*Manager* means a business manager of a marijuana establishment, as described in subsection 6.70.230.J, and includes, when applicable, the definition provided in the state marijuana code, C.R.S. § 44-10-103, as amended.~~

*Marijuana* means regulated marijuana, as defined by 1 CCR 212-3.

~~*Marijuana establishment* means a facility licensed by the city and state to operate in the city as a retail marijuana store, a co-located retail marijuana store and medical marijuana center, a marijuana hospitality business, or a retail marijuana hospitality and sales business that distributes, dispenses, displays, sells, allows the consumption of, otherwise provides marijuana to consumers, patients, or caregivers as authorized pursuant to section 16 of article XVIII of the state constitution and other applicable state law. or~~

~~*mMarijuana store* means a facility licensed by the city and state to operate in the city as a retail marijuana store, or a co-located retail marijuana store and medical marijuana center, that distributes, dispenses, displays, sells, or otherwise provides marijuana to consumers, patients, or caregivers as authorized pursuant to section 16 of article XVIII of the state constitution and other applicable state law.~~

~~*Marijuana hospitality business* means a facility, which may not be mobile, licensed by the city and state to operate a licensed premises in the city to permit the consumption of marijuana in accordance with all applicable laws.~~

*Medical marijuana delivery business* means a medical marijuana center that delivers marijuana to a consumer at a location other than a licensed premises.

*Moral character* means the degree to which a person's history demonstrates honesty, fairness, and respect for the rights of others and for conformance to the law, which may include considerations of whether an individual has:

- A. Ever had a professional license denied, suspended, or revoked;
- B. Ever had a business license denied, suspended, or revoked;
- C. Ever surrendered, been denied, or had any type of marijuana-related business license placed on an administrative hold, suspended, or revoked;

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- D. Ever been denied any type of marijuana-related business license;
  - E. Ever had a business temporarily or permanently closed for failure to comply with any tax, health, building, fire, zoning, or safety law;
  - F. Ever had an administrative, civil, or criminal finding of delinquency for failure to file or failure to pay sales or use taxes or any other taxes;
  - G. Ever been convicted of a felony or other offense involving a crime of moral turpitude; or
  - H. Within the previous 12 months been indicted, charged with, or convicted of any offense, whether a criminal felony, misdemeanor, petty offense, or any local ordinance violation related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marijuana.

*Principal officer* means the chief executive officer, president, vice president, secretary, treasurer, chief financial officer, chief operating officer, and executive director.

*Retail marijuana hospitality and sales business means a facility, which cannot be mobile, licensed by the city and the state to operate a licensed premises to permit the consumption of only the retail marijuana or retail marijuana products it has sold in accordance with all applicable laws.*

*School* means a school whose site development plan would be encompassed within the procedures of C.R.S. § 22-32-124(1) or (1.5), (2017).

(Code 2009, § 6.70.20; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2019-34, § 2, 6-25-2019; Ord. No. O-2020-21, § 2, 4-28-2020; Ord. No. O-2020-39, § 2, 10-13-2020)

#### **Sec. 6.70.030. Relationship to state law.**

The provisions in this chapter 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 state constitution and the municipal Charter. The city intends that both state law and this chapter apply within the city. In the event of a conflict between the provisions of this chapter and the provisions of state law, the more restrictive provision shall control.

(Code 2009, § 6.70.030; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.040. Marijuana licensing authority established.**

- A. Creation. There is created a local marijuana licensing authority, hereinafter referred to in this chapter as the "authority." The municipal judge, or the judge's designee, shall act on behalf of the authority.
- B. Selection division. Within the authority, there is created a division, hereinafter referred to in this chapter as the "selection division," for the purpose of selecting licensees among applicants for a license. The three members of the selection division shall be the municipal judge or the judge's designee, the chief of public safety or the chief's designee, and the ~~director of community services~~city manager or the ~~city manager~~director's designee. The selection division may adopt rules of procedure to govern its processes. The city attorney's office shall advise the selection division through its decision-making process.
- C. Under no circumstances shall the authority approve any application for local licensing of a marijuana establishment in circumstances where the state has failed to act in accordance with section 16 of article XVIII of the state constitution, it being the intent of this chapter that no marijuana establishment may lawfully exist in the city absent the issuance of a state license and full regulatory oversight of the establishment as a retail marijuana ~~store establishment~~ by the state as well as the city. Accordingly, the authority shall not approve any application for licensing submitted independently and in lieu of state licensing nor shall the

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authority grant any license if the state fails to act within 90 days on any specific application for licensing of a ~~retail~~-marijuana establishment in accordance with section 16(5)(g)(III) of article XVIII of the state constitution.

- D. Duties and powers of the authority. The authority shall have the power to grant or deny an application pursuant to this chapter, and to impose any conditions on the applicant or licensee related to the granting of the license. The authority shall have the authority to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held. The authority may adopt rules of procedure regulating the conduct of its meetings and hearings. The authority shall have the authority to approve or deny applications for license renewals, transfers of ownership, changes of corporate structure, changes of location, ~~and~~ modifications of licensed premises or approved plans, ~~and changes in manager registration~~. The authority shall have the authority to summarily suspend a license pending a hearing. The authority shall have the power, after hearing, to revoke or suspend any license, or to impose fines in lieu of suspension, civil penalties, sanctions, or other conditions on the applicant, ~~or~~ the licensee, ~~or the manager~~, relating to the license.
- E. The authority shall designate a secretary of the authority, who shall provide the necessary notice of meetings and secretarial and reporting services for the authority.
- F. The city clerk or designee shall receive all applications for licenses, facilitate the departmental review and approval for each application, issue the licenses granted by the authority upon payment of fees required and upon approval of the appropriate licensing authority, and maintain all licensing records for the city. The authority may delegate any administrative matter to the secretary, city clerk or designee.

(Code 2009, § 6.70.040; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-40, § 8, 10-13-2020)

#### **Sec. 6.70.050. Licensing authorized.**

The authority may issue only marijuana store licenses, ~~marijuana hospitality business licenses, and retail marijuana sales and hospitality business licenses~~ as authorized by state law. No other types of marijuana establishment may be licensed or may operate in the city. A marijuana store license shall act as a retail marijuana store license and also as a medical marijuana center license under the restrictions described in section 6.70.220.

(Code 2009, § 6.70.050; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.060. License required.**

- A. The license requirement set forth in this chapter 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, including, by way of example, a sales and use tax business license granted and issued by the city, or any applicable zoning, development, or building permits.
- B. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential civil or criminal liability.
- C. Except as provided in section 6.70.230.I, it shall be unlawful for any person to operate a marijuana establishment in the city without obtaining a local license to operate pursuant to the requirements of this chapter while concurrently holding a license in good standing from the state.
- D. A separate license shall be required for each specific business and for each geographic location.

(Code 2009, § 6.70.060; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-39, § 3, 10-13-2020)

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#### **Sec. 6.70.070. Cap on licenses.**

The authority shall grant no marijuana store license that would increase the number of active marijuana store licenses in the city to more than four. There shall be no cap on the number of marijuana hospitality business licenses, and retail marijuana sales and hospitality business licenses.

(Code 2009, § 6.70.070; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.080. Application acceptance periods.**

- A. *Window for annexation referrals.* No application for a license for a location outside the city limits shall be considered unless, within 63 days of an announcement of a request for expression of interest issued by the authority, the applicant has submitted all materials required under the land development code for presentation of an annexation application to the city council for referral. See title 15. Applications for licenses for locations outside the city must also comply with the time restrictions for applications described in subsection B of this section.
- B. *Application window.* In an announcement of a request for expression of interest, the authority shall set the opening and closing dates and times during which the authority will accept applications for a new license. These dates and times shall be committed to the authority's discretion, to provide an orderly process. No application for a license shall be considered for any location, including one outside the city limits, unless the city receives a proper and complete application for a new license within this window.
- C. Notwithstanding the foregoing, the authority may extend or waive any deadline or delay evaluation of applications to the extent necessary to receive required application materials, fees, and approvals from the state licensing authority for any application, so long as the applicant made application to the state licensing authority for a state license within 30 days of the authority's announcement of the request for expression of interest.

(Code 2009, § 6.70.080; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2018-31, § 9, 8-14-2018)

#### **Sec. 6.70.090. Request for expression of interest.**

The authority shall announce its first request for expression of interest as soon as it determines it to be practicable. The authority may announce future requests for expression of interest at future dates when fewer licenses are active than the cap number, under the circumstances described in this chapter. The city clerk or designee of the authority shall post notice of requests on the city's website. The city clerk or designee shall specify the start and end date and time of the application period.

(Code 2009, § 6.70.090; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-40, § 9, 10-13-2020)

#### **Sec. 6.70.100. Application requirements.**

- A. All applications for a license shall be submitted to the city clerk or designee of the authority upon forms and in the manner provided by the authority and shall include all materials required for a new license under state law and 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 authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials to the authority. The city clerk or designee shall review the application, make a determination of completeness, and forward to the complete applications and all supporting documentation to the authority for consideration. The authority may, in its discretion, require additional documentation associated with the application, including

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any other information that may be relevant, as may be necessary to enforce the requirements of the state law and this Code.

B. Complete applications.

1. For purposes of this chapter, an application for a license shall not be considered complete until the city clerk or designee has determined that all requirements of the application have been provided to the city, received the local share of the application fee from the state, except as described in subsection B.2 of this section, and obtained all other information the authority determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
2. Applications for locations outside the city, already licensed for retail marijuana sales by the state licensing authority and proposed for annexation into the city, need not include the local share of the state application fee. They shall, however, in addition to the submittal requirements of section 6.70.110, include a copy of the active state license as well as all materials submitted to the state licensing authority in application for such license and the most recent renewal thereof if any renewal applications have been made. Should such a local application be selected for approval, the state licensing authority may require an application for a change of location in order to revise the local jurisdiction. The applicant may apply for such a transfer subsequent to final licensure and annexation by the city.
3. If the city clerk determines an application is incomplete or deficient, the applicant may request that the application be sent to the authority despite the alleged deficiency. Upon such a request, the city clerk or designee shall forward the application to the authority for consideration together with a statement outlining the alleged deficiencies.

- C. All applications may be subject to disclosure under the Colorado Open Records Act. Each application for a new license shall include a public version of the application, with all information redacted that the city is prohibited from releasing under the Act, in a format designated by the authority. The city reserves the right, however, to release all records and parts of records required by the Act, even if the applicant has proposed such records or parts of records for redaction. The selection division shall consider, as a factor in its decision-making process related to the completeness and forthrightness of the application, the extent to which the applicant has proposed for redaction records or parts of records that are properly public and subject to disclosure under the Act.
- D. The authority may promulgate and make available forms for different types of applications under this chapter, and if a form exists for a particular type of application, the authority shall not consider such application unless it includes such completed form. Along with or as a part of such forms, the authority may specify page or word limits for applications or any part of any application as it determines necessary to ensure an orderly process.
- E. No location shall serve as the proposed location for more than one application.
- F. No person shall apply for more than one license in any location in the city. No owner of any business applying for a license or in possession of a license within the city may apply for, or be an owner of any other business entity applying for, another license within the city.
- G. Every applicant and licensee under this chapter shall be deemed, by virtue of applying for, holding, or renewing a license, to have expressly consented to the procedures set forth in this chapter.

(Code 2009, § 6.70.100; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 3, 4-28-2020; Ord. No. O-2020-40, § 10, 10-13-2020)

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#### Sec. 6.70.105. Locational requirements.

No application for a license or for a change of location shall be granted which proposes a licensed premises within 250 feet of a residentially zoned area or within 1,000 feet of any school serving students in any grade from kindergarten through 12th grade, inclusive.

(Code 2009, § 6.70.105; Ord. No. O-2017-61, § 2, 10-10-2017)

#### Sec. 6.70.110. Submittal for a ~~renewal~~ license.

Each application for a license shall be filed on forms provided by the authority, and shall include:

- A. A cover letter providing an overview of the proposed establishment and reasons the applicant has chosen to locate in the city.
- B. All applicable fees, including any annual operating fee due for the first year of operations. The city shall not retain, or shall refund, the annual operating fee if the application is not selected for approval.
- C. Copies of background checks, photo identification, and fingerprints of all persons who are required to request a finding of suitability by state law or administrative rule, and any other person required by of the authority, as well as a statement of all violations and penalties for any infractions or offenses by the applicant or applicant's controlling beneficial owners, principal officers, ~~managers, or~~ employees relating to any marijuana establishment in the state or a statement that no such violations or penalties have occurred.
- D. A site control plan, including:
  1. A detailed description, floor plan, and vicinity map of the proposed location, including a full address.
  2. A general description of site improvements proposed and the land development approvals required therefor.
  3. A zoning verification letter from the planning and development services department.
  4. Demonstration that the applicant has control of the site, for example by property ownership or lease, for at least one year's duration. If the applicant does not own the property, the applicant shall provide a letter from the property owners expressly approving the use of the property as a marijuana ~~store establishment~~.
- E. A business plan, including the following:
  1. A general description of the business, a market analysis, and a marketing plan.
  2. Details of overall management and operations including hours of operation, curricula vitae of all principal officers and ~~managers~~, and staffing plans, including any specific commitments of the licensee toward staffing the establishment with a diverse workforce of city residents.
  3. ~~Financial information demonstrating a formalized relationship with an established financial institution, demonstrated liquid assets of \$250,000.00 in the applicant's control, financial projections including assumptions used, and sources of funds.~~
  4. A description of the applicant's experience operating licensed marijuana businesses in the state or elsewhere, including compliance with state and local laws or violations thereof.
  5. ~~For marijuana store licenses, A~~an indication of whether the marijuana store would sell retail or both retail and medical marijuana.

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- F. Security plan. All licensees shall file a written security plan with the authority. The security plan will be protected from public disclosure to the extent provided under the Colorado Open Records Act, C.R.S. § 24-72-204(2)(a)(VIII). The written security plan shall address, at a minimum, the following elements:
1. Evidence that the premises will comply with all security and video surveillance requirements set forth in the Charter, rules 3-220 and 3-225 of the code of state regulations, 1 CCR 212-3, if applicable;
  2. A site plan showing the entire vicinity in which the marijuana establishment is located, including the streets parking lots other tenants within the property, and any other entities that physically border the establishment;
  3. A floor plan of the marijuana establishment detailing the locations of the following:
    - a. All entrances and exits to the establishment;
    - b. The location of any windows, skylights, and roof hatches;
    - c. The location of all cameras, and their field of view;
    - d. The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
    - e. The location of the digital video recorder and alarm control panel, including the location of the off-site storage or network service provider for storage of the required copies of surveillance recordings; and
    - f. Restricted and public areas.
  4. The type of security training provided for, and completed by, establishment personnel, including conflict resolution training and procedures for handling violent incidents;
  5. How the licensee intends to use and maintain an incident log;
  6. The establishment's procedures for preventing or controlling the use of marijuana on the licensed premises as applicable;
  7. Security measures taken by the licensee to prevent individuals from entering the limited access area portion of the licensed premises;
  8. The licensee's closing procedures after the cessation of business each day;
  9. The licensee's plan to prevent theft or the diversion of marijuana, including maintaining all marijuana in a secure, locked room that is accessible only to authorized persons as applicable;
  10. The type of alarm system and outdoor lighting to be used by the licensee;
  11. The licensee's procedures for accepting delivery of marijuana at the establishment if applicable, including procedures for how it is received, where it is stored, and how the transaction is recorded;
  12. A copy of the licensee's security alarm system monitoring contract;
  13. A lighting plan showing the lighting outside of the marijuana establishment for security purposes and compliance with applicable city requirements;
  14. A landscaping plan showing the landscaping outside of the marijuana establishment for security purposes and compliance with applicable city requirements;
  15. A plan for disposal of any marijuana that is not sold; and
  16. A plan for preventing underage persons from entering the premises.



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- G. A community outreach plan, including:
    - 1. The applicant's history of community and neighborhood involvement with other similar businesses;
    - 2. Written policies and procedures to address community concerns and complaints;
    - 3. A designated point of contact, with comprehensive contact information, for public questions and concerns; and
    - 4. Measures and procedures for mitigating any impacts to the neighborhood, foreseen or unforeseen.
  - H. An odor management plan preventing any odor from the licensed premises from being perceptible to an ordinary person at the exterior of the building of the licensed premises or at any space adjoining the licensed premises.
  - I. A description of how the licensee and licensed establishment would contribute to and support the overall vision, values and goals identified by the city and specified in adopted city plans such as Envision Longmont and the sustainability plan. This information may be included in the cover letter rather than as a separate document.
  - J. Separation information. A description and graphic representation of the location of the proposed licensed premises relative to the nearest residentially zoned area and the nearest school serving students in any grade from kindergarten through 12th grade, inclusive.
  - K. A public version of the application, as described in section 6.70.100.C.
  - L. Such additional information as the authority may require and any forms as the authority may require.

(Code 2009, § 6.70.110; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 4, 4-28-2020)

#### **Sec. 6.70.115. Submittal for a renewal license.**

Each renewal application for a license shall be filed on forms provided by the authority, and shall include:

- A. All applicable fees, including any annual operating fee due for the following year of operations. The city shall not retain, or shall refund, the annual operating fee if the application rejected.
- B. Demonstration that the applicant has control of the site, for example by property ownership or lease, for at least one year's duration.
- C. A sworn statement that there has been no material change to the application materials previously submitted to the authority pursuant to L.M.C. 6.70.110, or if a change has occurred, copies of the modified application materials.
- D. Such additional information as the authority may require and any forms as the authority may require.

#### **Sec. 6.70.120. Application review process for new licenses.**

- A. *Initiation.* The city clerk or designee shall begin a process of selecting new marijuana store licenses by issuing a request for expression of interest. Within the timeframe set by such a request, any person may submit an application for a license.
- B. *Comment.* Following the application window described in subsection A of this section, the city clerk or designee shall open a public comment period of 21 days during which any person may comment on the received applications for the record. The city clerk or designee shall post notice of such comment period on

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the city's website. The authority may extend the comment period as necessary, in its determination, to elicit robust public comment. The authority may restrict the form and manner of public comment so as to provide for an orderly process and to foster the pertinence of comments to the selection of factors described in subsection C.2 of this section. City departments, including, but not limited to, the community services department, the planning and development services department, the public safety department, the finance department, the city clerk's office, may also file recommendations on the applications with the city clerk or designee. Members of these departments who are also members of the selection division shall not participate in the formulation or submission of such recommendations.

C. *Selection.*

1. From among the applications received, the selection division shall select applications to which to award a conditional license. The number of such conditional licenses, in addition to the number of active licenses within the city, shall not exceed the cap. The selection division shall make its selections based on a multi-factor balancing test, considering the totality of the circumstances, with the overall goal of selecting those applications which, taken together and in consideration of any active licenses within the city, provide the greatest benefit to the city and its inhabitants by offering and maintaining the safest environment, the best service, and the fewest negative impacts to the community.
2. Factors. The following are factors the selection division shall consider and weigh in making this determination:
  - a. Whether the application is for a location already licensed by the state and serving as a retail marijuana ~~store-establishment~~ outside the city and proposed to be annexed into the city, which factor shall be weighted heavily;
  - b. The applicant's experience operating a licensed marijuana business in the state, including compliance with state and local laws, or violations thereof;
  - c. The degree of moral character of the applicant and the applicant's principal officers, directors, controlling beneficial owners, managers, and employees;
  - d. The impact of the proposed establishment on the neighborhood surrounding the proposed location, the community as a whole, and the natural environment, and the applicant's commitment to take specific measures to mitigate such impacts;
  - e. The convenience of the proposed location to the residents of the city, considering any synergies, redundancies, or conflicts posed by the proposed locations of other marijuana ~~store establishment~~ applications and existing marijuana establishments;
  - f. The compatibility of the proposed location with the surrounding properties, including aesthetic considerations;
  - g. The apparent conformity of the application to the zoning of the proposed location, as an initial matter and with the understanding that full land use review would follow the award of a conditional license;
  - h. The diversity of retail choices the applications would bring to the city;
  - i. The applicant's ability to demonstrate, through a business plan, its ability to operate and develop the proposed establishment in a highly regulated industry;
  - j. The applicant's demonstrated ability to operate an effective and lawful analogous business in the city;
  - k. Diversity of ownership of licenses, including consideration of ownership of any active licenses or establishments outside but near the city limits;

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- l. The quality and detail of the proposed security plan, business plan, community outreach plan, and other application materials;
    - m. The clarity and duration of the applicant's site control of the proposed location;
    - n. The potential for crime in the proposed location;
    - o. The degree of detail and completeness provided in the application, and the extent to which the application includes false or misleading information; and
    - p. Any other unique benefits the application would present to the inhabitants of the city and any other factors that may be relevant.
  - 3. Grounds for denial. Any application may be denied which violates any of the following restrictions:
    - a. No applicant may submit more than one application in response to any request for expression of interest.
    - b. No location shall serve as the proposed location for more than one bona fide application in response to any request for expression of interest.
  - D. *Authority to award.* Should the authority receive fewer applications than the maximum the authority is authorized to award, or should fewer than such maximum demonstrate an acceptable level of satisfaction of the factors listed in subsection C.2 of this section, the authority may award fewer licenses than such maximum.
  - E. *Selection order.* The authority shall issue a written order stating the determinations of the selection division and a brief explanation of the basis thereof, and awarding any conditional licenses as determined by the selection division. Such licenses shall be considered approved, but shall not permit marijuana sales or operations under this chapter until they are finalized as described below. The secretary of the authority or the city clerk or designee shall post selection orders online, shall notify the public thereof by publication, and shall notify each affected applicant by certified mail at the address on the application.
  - F. *Hospitality License.* The procedures provided in subsections A through E of this section shall not be applicable to marijuana hospitality business licenses or retail marijuana sales and hospitality business licenses.
  - FG. *Land use review.* No license shall become final until the director of planning and development services, or designee, certifies to the authority that the conditional licensee has received all necessary approvals under the land development code (not including permits and approvals required under title 16) to begin operating within the city as described in the application. As an exception to the provisions of the land development code, decisions of the planning and development services director on application approvals necessary to begin operating within the city as described in the license application shall be final and shall not be appealable to any city body, but shall be reviewable under rule 106 of the Colorado Rules of Civil Procedure.
  - GH. *Lapse.*
    - 1. Any conditional license for a location within city limits that does not receive the certification described in subsection F of this section, within 12 months of the award of the conditional license shall lapse and be of no further effect.
    - 2. Any conditional license for a location outside city limits that does not receive such certification, including certification of approval of annexation, within 18 months of the award of the conditional license shall lapse and be of no further effect.
    - 3. No alleged delay on the part of any city staff shall be a defense against lapse under this subsection. Conditional licensees are encouraged to submit full and complete land use applications as early as possible.

**H.** *Final license.* Upon receiving the certification described in subsection F of this section, for a conditional license, passage of a final inspection, as described in section 6.70.230.K.2, and receipt of all applicable fees due, the authority shall issue a final license allowing a marijuana storeestablishment.

(Code 2009, § 6.70.120; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 5, 4-28-2020; Ord. No. O-2020-40, § 11, 10-13-2020)

#### **Sec. 6.70.130. Lapse after licensure.**

- A. Should any licensed premises fail to open for business as a retail marijuana establishment, with all necessary local permits approved, within six months of the applicable lapse deadline described in section 6.70.120.G or final licensure, whichever is earlier, or should any licensed premises thereafter discontinue retail-marijuana operations at the licensed premises for 35 days or more, the license shall lapse and be of no further force and effect. The authority may confirm such lapse by order. No alleged delay on the part of any city staff shall be a defense against lapse under this section. Licensees are encouraged to secure building permits, certificates of occupancy, and other municipal approvals as early as possible.
- B. Exception for modification of premises. After receiving approval from the authority for a modification of premises under section 6.70.180, the licensee may discontinue retail-marijuana operations for a period of six months from the date of such approval without causing such license to lapse.

(Code 2009, § 6.70.130; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.135. Extensions of lapse deadlines due to hardship; requirement of due diligence.**

Whenever it appears that a conditional or final licensee will be unable to meet the prescribed limitations of section 6.70.120.G or section 6.70.130, the licensee may seek an extension of such deadlines from the authority. Any application for such an extension shall include an affidavit describing the applicant's due diligence and hardship, and shall be filed at least 35 days prior to the applicable deadline. The applicant shall demonstrate to the authority the progress being made toward the commencement of business at the licensed premises, the due diligence on the part of the applicant, and the reasons why the premises have not been completed. The authority shall consider the applicant's affidavit and, if satisfied that the applicant is suffering a bona fide hardship and diligently making progress toward overcoming it, shall extend the applicable deadline for an additional period. The additional period shall not exceed one year, and shall be no longer than necessary to afford relief. The authority shall not grant an extension for a self-imposed hardship. Under no circumstances shall the authority grant more than two extensions to the same deadline for any licensed premises.

(Code 2009, § 6.70.135; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.140. Hearings.**

The authority is authorized to conduct any hearing required by provisions of the state constitution or state or local laws related to marijuana establishment licensure in the city, or as it deems necessary to make determinations under this chapter. Under no circumstance, however, shall the authority issue a license for an application for marijuana store license not selected for approval by the selection committee, nor issue any order that might allow the number of marijuana stores within the city to exceed the cap. The authority shall require any notice of hearings required by state law.

(Code 2009, § 6.70.140; Ord. No. O-2017-61, § 2, 10-10-2017)

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**Sec. 6.70.150. Duty to supplement information.**

- A. If, at any time before or after a license or other approval is issued pursuant to this chapter, any information required by state or local law or regulations changes in any way from that which is stated in any application, the licensee shall supplement such information in writing to the authority within 14 days from the date upon which such change occurs.
- B. An applicant or licensee has a duty to notify the authority in writing of any pending criminal charge, and any criminal conviction of a felony or other offenses involving a crime of moral turpitude by the applicant, any persons who are required to request a finding of suitability by state law or administrative rule, and any other person required by the authority within 14 days of the event.
- C. An applicant or licensee has a duty to notify the authority in writing of any pending criminal charge, or any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marijuana, or any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marijuana, by any person required to request a finding of suitability by state law or administrative rule, the applicant, principal officer, manager, or employee within 14 days of the event.

(Code 2009, § 6.70.150; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 6, 4-28-2020)

**Sec. 6.70.160. Transfer of ownership and changes in business structure.**

- A. For the purposes of this section, a transfer of ownership shall also include any reallocation of ownership or change in business structure necessitating an application for transfer of ownership or change in business structure under state law, including 1 CCR 212-3, rule R 3-220, as amended. Any transfer of ownership shall be governed by the procedures set forth for transfers of ownership under state law. No such change of ownership may occur except upon the authority's approval of a local application for the change. Any such application shall include ~~all of the~~ information required by L.M.C. 6.70.110 subsections B through F, H, and ~~this chapter~~ for a license application, and must include all financial disclosures required under state law including 1 CCR 212-3, rule 2-230, as amended. Upon receipt of such application, the authority shall schedule a hearing thereon, and shall notify the city manager of such hearing and afford city staff the opportunity to comment on the application in writing or at the hearing. The authority shall conduct the hearing and grant the application if the application is complete and meets the following standards:
  - 1. No person shall be permitted to become an owner of any license if that person already is an owner of any license within the city.
  - 2. No transfer of ownership shall be approved by the authority until all taxes, fees, fines, penalties, and interest assessed against or imposed upon such licensee and due to the city in relation to the licensed business are paid in full.
  - 3. The moral character, record, and reputation of all proposed owners who are required to request a finding of suitability under state law or administrative rule shall be satisfactory to ensure safe, lawful, and effective management of the marijuana establishment.
- B. Time limitation on transfer of ownership.
  - 1. *In general.* A transfer of ownership of any license issued pursuant to this chapter shall be prohibited until two years have elapsed since the date the final license is issued by the city.
  - 2. *Exceptions.* The authority shall allow an exception to the general provision of subsection B.1 of this section, if the application for transfer of ownership includes an affidavit demonstrating:

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- a. The death, or disability preventing management of the store, of an owner;
  - b. That the change in ownership would result in continued ownership of the licensee by at least 50 percent of owners, representing at least 50 percent of the effective ownership of the licensee, included in the application for a new license approved by the authority; or
  - c. That the transfer of ownership is the result of the change in ownership of the licensee company or the parent company of the licensee, and that in addition to the licensed establishment, the sale encompasses at least one other retail marijuana store, ~~or~~ medical marijuana center, marijuana hospitality business, or retail marijuana hospitality and sales business located outside the city and licensed by another local jurisdiction.

(Code 2009, § 6.70.160; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 7, 4-28-2020)

#### **Sec. 6.70.170. Change of location.**

- A. No license may be transferred to another location except upon approval of an application for such transfer. The application shall include all of the submittal materials required for an application for a new license. Upon receipt of such application, the authority shall schedule a hearing thereon, and shall notify the city manager or designee of such hearing and afford city staff the opportunity to comment on the application in writing or at the hearing. The authority shall conduct the hearing and grant the application if the application is complete and the applicant proves that the change of location will not negatively impact the neighborhood surrounding the new location and will in fact benefit the community as a whole. This approval shall be required in addition to any other approvals required by other provisions of this Code, and such other municipal applications shall proceed under generally applicable procedures including any appeal procedures. A granted application shall allow the transfer on the conditions applicable to an award of a new conditional license, including, but not limited to, the provisions of sections 6.70.120.F-G through H-I and 6.70.130. All requirements and provisions related to renewal and lapse of a license shall apply regardless of the initiation or progression of these proceedings to change a license's location.
- B. Time limitation on change of location.
  - 1. *In general.* The authority shall grant no application to change a license's location within two years of the original final licensure or of a prior change of the license's location.
  - 2. *Exception.* The application for change of location may include an affidavit describing a particular hardship preventing marijuana sales at the location. The authority shall consider the applicant's affidavit and, if satisfied that the applicant is suffering a bona fide hardship preventing marijuana sales at the location, and that the hardship is not self-imposed, shall allow an exception to the general provision of subsection B.1 of this section.

(Code 2009, § 6.70.170; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.180. Modification of premises or change of plan.**

A licensee shall not make changes, alterations, or modifications to the licensed premises as described in 1 CCR 212-3, rule 2-260, as amended, or practices related thereto, that materially or substantially alter the licensed premises or the usage of the licensed premises from the plans submitted in accordance with section 6.70.110 and originally approved by the authority without submitting an application for such change, alteration, or modification, and obtaining the approval of the authority to make such proposed modifications. Upon receipt of such application, the authority shall review the application, notify the city manager of such application and afford city staff the opportunity to comment on the application in writing or at the hearing. The authority may schedule a hearing thereon or approve or deny administratively without a hearing.

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(Supp. No. 5, Update 1)

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(Code 2009, § 6.70.180; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 8, 4-28-2020; Ord. No. O-2020-40, § 12, 10-13-2020)

**Sec. 6.70.190. Terms of licenses; renewals.**

- A. Beginning with the date of approval and conditional licensure, any license issued pursuant to this chapter shall be valid for a period of one year. Notwithstanding anything contained in this chapter, a licensee has no vested right to the renewal of a license, and no property right in the renewal of a license. Licenses that are the subject of a suspension, a disciplinary action, a lapse deadline extension, or any other proceeding under this chapter are subject to the requirements of this section. Licenses that are not timely renewed shall expire. The authority shall take no action on any renewal of any license except as described in this section.
- B. A licensee may apply for the renewal of an existing license by filing an application for renewal on forms provided by the authority not less than 30 days but not more than 91 days prior to the expiration of the license. An application for renewal will only be accepted if it is accompanied by the requisite fees and any supplemental materials required by the authority. If the licensee fails to apply for renewal at least 30 days prior to the expiration of the license but does apply prior to the expiration of the license, the authority 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 authority may elect to administratively continue the license beyond the expiration date while a renewal application is pending, but in no event shall the license be administratively continued for more than 63 days. Notwithstanding the foregoing, the licensee may also apply for license renewal early if necessary to align the local license renewal with any state license renewal process.
- C. The city shall not accept renewal applications after the expiration date of the license. In the event the license is not renewed prior to expiration, the marijuana establishment shall not operate, and the license shall be considered expired and terminated.
- D. Grounds for denial. The following constitute grounds for denial of a license renewal application:
  - 1. The authority may deny a license renewal for good cause.
  - 2. The authority shall not renew any license that has lapsed.
  - 3. The authority shall not renew any license until the licensee has paid the annual operating fee, if any has been established by the city council, for the following year and until all other taxes, fees, fines, penalties, and interest assessed against or imposed upon such licensee and due to the city in relation to the licensed business are paid in full.
  - 4. The authority shall not renew any license if the licensee has made any materially false statement in any license or renewal application.
  - 5. The authority shall not renew any license if the licensee has failed to maintain a valid state-issued license, or does not or cannot meet the requirements of applicable state or local laws or regulations.
- E. Upon receipt of a renewal application, the city clerk or designee shall forward the application to the authority and provide a copy to the city manager or designee. The authority shall give city staff an opportunity to comment on the application. The authority may hold a hearing on the application. Administratively or following such a hearing, the authority shall issue a decision on the renewal application. Approval of an application for renewal shall issue a decision on the renewal application. Approval of an application for renewal shall renew the license for a period of one year from the original expiration date of the prior licensure or license renewal period, as applicable.

(Code 2009, § 6.70.190; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 9, 4-28-2020; Ord. No. O-2020-40, § 13, 10-13-2020)

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**Sec. 6.70.200. Licensing new premises upon deactivation of a license.**

- A. If, at any time, fewer licenses than the cap [applicable to a given license type](#) are active or capable upon satisfaction of conditions of becoming active, by such an event as a lapse, a failure to renew, a voluntary and irrevocable termination of a license submitted by the licensee to the authority, or a revocation, the authority shall proceed, as set forth in this section, to award licenses to bring the total number of active licenses to the cap number.
- B. The authority shall not proceed with selection of new licensees until all opportunities for the prior licensee to reinstate its license, including by a procedurally appropriate court challenge, have been exhausted.
- C. After such exhaustion, the authority shall convene the selection division, and the selection division shall determine whether the applications it has on file in response to the most recent request for expression of interest are recent enough that any such application, if approved, would reasonably be capable of complete implementation by the applicant despite the passage of time. If so, the selection division shall proceed directly to the selection phase of the application review process, as described in section 6.70.120.C. If not, the selection committee shall open a new selection phase with a request for expression of interest, followed by a comment period, as described in section 6.70.120. In either case, the selection committee shall continue the process for awarding new licenses under the remaining procedures described in section 6.70.120.

(Code 2009, § 6.70.200; Ord. No. O-2017-61, § 2, 10-10-2017)

**Sec. 6.70.210. Fees.**

- A. Fees shall be applied only in the circumstances allowed under the state constitution and applicable state and local laws and regulations. Annual operating fees shall apply as a condition of receiving a conditional license and on each annually-required license renewal.
- B. The council may by resolution set fees relating to applications, reviews, reports, licensing, and operations governed by this chapter. Applicants and licensees shall pay all such applicable fees.

(Code 2009, § 6.70.210; Ord. No. O-2017-61, § 2, 10-10-2017)

**Sec. 6.70.220. Medical marijuana center operations permitted under license.**

Each license granted under this chapter shall constitute a local license for a retail marijuana store, and shall also constitute a local license to operate a medical marijuana center at the licensed location under C.R.S. title 44, article 10, provided that the licensed location continues to make retail marijuana available to the public at the location. Lapse, suspension, revocation, or failure to obtain a necessary renewal of a local license under this chapter, including by reason of failure to sell retail marijuana to the public upon the licensed premises, shall constitute good cause for the refusal of the city to allow medical marijuana center operations to continue under the license. The licensee must comply with all state laws and regulations governing the sale of retail marijuana at the licensed premises, and, if the licensee also sells medical marijuana, all state laws and regulations governing the sale medical marijuana at the licensed premises and through delivery to residents of the city. Adding or removing medical marijuana center operations from a licensee's plans shall constitute a change of plan under section 6.70.180.

(Code 2009, § 6.70.220; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2019-34, § 2, 6-25-2019; Ord. No. O-2020-39, § 4, 10-13-2020)



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## Sec. 6.70.230. Operational requirements.

All marijuana establishments shall comply with the applicable state and local rules and regulations, as amended from time to time, including as stated in the Code of Colorado Regulations, 1 CCR 212-2 (Retail Marijuana Code) and 1 CCR 212-3. In addition, licensees shall comply with the following local operational regulations. Failure to comply with any state law or regulation or any of the following operational regulations may be grounds to suspend or revoke any license, or for the imposition of civil penalties where applicable.

- A. *Minimum standards.* A marijuana establishment shall not be permitted to operate until the licensee has acquired all of the necessary permits, licenses, and authorizations, including a certificate of occupancy, and demonstrates implementation of the requirements of this section.
- B. *Compliance with plans.* Marijuana establishments shall fully comply with the security plan, community outreach plan, and any sustainability or employment plan approved by the authority for the location.
- C. *Video surveillance.* Marijuana establishments are required to install a video surveillance system satisfying the minimum standards described below, in addition to the state requirements set forth in rule 3-225 of 1 CCR 212-3:
  - 1. All surveillance recordings shall be retained for a minimum of 60 days and shall be in a digital format that can be easily accessed for viewing and that ensures authentication of the recording as being legitimately captured without alterations.
  - 2. In addition to maintaining surveillance recordings in a locked area on the licensed premises, a copy of the surveillance recordings must be stored at a secure off-site location or through a network cloud service that provides on-demand access to the recordings. The off-site location or network service provider shall be included in the security plan submitted to the city and updated within 72 hours of any change to the location or provider.
  - 3. Video surveillance records and recordings must be made available immediately upon request of the authority or the city department of public safety.
  - 4. If video surveillance or storage equipment becomes inoperable, or storage network service becomes disabled, the marijuana establishment shall cease all transactions until the equipment or network service is made operable.
  - 5. The consumption area of a licensed marijuana hospitality spa business where a consumer receives massage services shall not overlap with the restricted access area and is not required to be under video surveillance except all points of ingress and egress must be under video surveillance.
- D. *Security alarm system.* All marijuana establishments shall install, maintain, and use a professionally monitored security alarm system meeting the following requirements:
  - 1. The system shall provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with exterior walls or walls shared with other building tenants, roof hatches, skylights, and storage rooms containing safes or vaults;
  - 2. The system shall include at least one silent holdup or duress alarm that can be manually triggered in case of emergency;
  - 3. The alarm system must be equipped with a failure notification and a battery backup system sufficient to support a minimum of four hours in the event of a power outage;
  - 4. The alarm system must be monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm,

including contact information, and shall be updated within 72 hours in the event the monitoring company is changed; and

5. The licensee shall maintain for a period of three years reports of any incidents triggering an alarm, and such reports shall be made available to the city during any inspection of the facility.
- E. *Secured storage.* All marijuana establishments must install a safe or vault for storage of cash on the premises when the business is closed to the public. The safe or vault must be incorporated into the building structure or secured to the structure in such a manner as to prevent removal.
- F. *Proof of age.* The business shall verify the proof of age of every person entering the licensed premises or completing a sale therein, by a form of valid identification listed in 1 CCR 212-3, rule 3-405(C), as amended.
- G. *Odor management.* For all marijuana establishments, the odor of marijuana must not be perceptible to an ordinary person at the exterior of the building of the licensed premises or in any space adjoining the licensed premises.
- H. *Hours of operation.* Marijuana establishments stores may only be open to the public between the hours of 8:00 a.m. and 10:00 p.m., daily. Marijuana hospitality businesses and retail marijuana hospitality and sales businesses may only be open to the public between the hours of 8:00 a.m. and 2:00 a.m., daily. No sale, delivery, or other distribution may occur upon the premises outside of those hours. Hours of operation must be posted at the main entry of the store.
- I. *Deliveries of marijuana.* Delivery of medical marijuana and paraphernalia shall be permitted by licensees operating a medical marijuana delivery business in conjunction with a state-licensed medical marijuana center with a valid marijuana delivery permit, and shall comply with the following requirements:
  1. Delivery of medical marijuana shall comply with 1 CCR 212-3 and C.R.S. § 44-10-501(11) as amended.
  2. All medical marijuana deliveries shall be subject to the recordkeeping requirements contained in subsection L.5 of this section.
  3. State-licensed medical marijuana centers with a valid delivery permit shall not make or complete deliveries of medical marijuana at any time outside of the hours of operation specified in subsection H of this section. Provided, however, in the event that a planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may be returned to the center. Medical marijuana centers with a valid delivery permit may accept orders for delivery 24 hours a day, Monday through Sunday.
  4. A medical marijuana transporter with a valid delivery permit may enter into a contract with a state-licensed medical marijuana center to deliver medical marijuana to any location in the city on behalf of the medical marijuana center provided that the medical marijuana center also holds a valid delivery permit.
  5. Medical marijuana centers may not utilize its off-premises storage facility to package, label, and fill orders for delivery of medical marijuana to a patient.
  6. All medical marijuana and medical marijuana-infused products delivered to any location in the city are subject to city sales tax.
- J. *Documents to be displayed.* All marijuana sales tax licenses shall be conspicuously posted inside the establishment near the main entrance. Any person delivering medical marijuana in the city on behalf of a marijuana business shall have in his or her possession a true and accurate copy of the license held by

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said business and shall, upon request by any police officer of the city or by any other duly authorized law enforcement officer, produce the same for inspection.

- K. *Registered manager.* ~~No All~~ marijuana establishments shall be operated or managed by ~~any person other than the licensee, with the exception the licensee or a manager who of a manager registered with the authority.~~ Such licensee or manager shall be on the premises and responsible for all activities within the licensed business during all times when the business is open. ~~In the event the licensee intends to employ a manager who was not identified on the license application, the licensee shall report the name of such manager to the authority, and such manager shall submit to the authority, at least 28 days prior to serving as a manager, an application containing all of the information required for a manager by this chapter on a license application, and shall submit the requisite fees. A licensee shall report to the authority any change in managers at least 28 days prior to employing an additional manager, and no more than five days after a manager is released from such position. Notwithstanding the foregoing, when a licensee reports to the authority as a new manager a person who holds an active occupational license from the state licensing authority as a key employee and provides proof thereof in the application, the person may begin serving as a manager of the licensee immediately and until such time as the authority acts on the application. Any timely report of a change in manager may be approved administratively. However, after a hearing, the authority may refuse to accept any person's registration as a manager upon a determination that the person's moral character, record, or reputation is unsatisfactory to ensure safe, lawful, and effective management of the marijuana establishment.~~
- L. *Inspections.*
1. *Grant of authorization.* By signing and submitting a license application, the applicant/licensee certifies that the applicant/licensee has received permission from the property owner to allow inspections as may be required under state or local licensing law. In addition, the owner of the premises authorizes city staff designated by the city manager to enter upon and inspect the premises upon presentation of official credentials. These inspections are part of the routine policy of inspection and enforcement of these regulations for the purpose of protecting the public safety, individuals operating and using the services of the marijuana establishment, and the adjoining properties and neighborhood. This rule shall not limit any inspection authority authorized under any other provision of law or regulation, including those of police, fire, building, and code enforcement officials.
  2. *Initial inspection.* The city shall inspect all marijuana establishments prior to final issuance of a license to verify that the facilities are constructed and can be operated in accordance with the application submitted and the requirements of laws of the city and the state. The initial inspection shall occur after the marijuana establishment is ready for operation, but a license that has not yet become final shall not entitle the licensee to allow marijuana to be present on the premises before the inspection is complete.
  3. *Regular inspections.* At a minimum, the city shall be authorized to perform regular inspections on a quarterly basis during the first year following licensure, and on a yearly basis prior to license renewal following the first year of operation.
  4. *Random inspections.* The regular licensing inspection procedures described shall not prevent the city from inspecting marijuana establishments at random intervals and without advance notice.
  5. *Inspection of records.* Upon request, the licensee or manager on duty shall retrieve and provide any relevant business records pertaining to the inspection, including, but not limited to, security camera recordings, marijuana inventory manifests, and copies of invoices and receipts. The city may require any licensee to furnish such information as it considers necessary for the proper administration of these regulations.

M. *Reporting of source, quantity, and sales.* The records to be maintained by each marijuana establishment shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include the following information, at a minimum, for both acquisitions from wholesalers and sales transactions:

1. Date, weight, type of marijuana, and dollar amount or other consideration of transaction;
2. For wholesale transactions, the sales and use tax license number of the seller from the state and city, if any; and
3. The amount of marijuana within the marijuana establishment.

Each year, with the licensee's application for license renewal, the licensee shall submit a report to the authority with this information for the prior operational year. The secretary of the authority may designate the form of the report.

N. *Reporting of criminal activity.* Reports of all criminal activities or attempts of violation of any law at the marijuana establishment, including the curtilage surrounding the licensed premises and the designated parking area, or related in any way to the marijuana business, shall be reported to the city department of public safety by the licensee within 12 hours of occurrence. Additionally, any violation of any law by any licensee, controlling beneficial owner, **manager**, principal officer, or applicant of the marijuana business shall be reported to the authority within 72 hours.

**Commented [TH5]:** Dawn: up to you if we need managers here

(Code 2009, § 6.70.230; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2020-21, § 10, 4-28-2020; Ord. No. O-2020-39, § 5, 10-13-2020)

#### **Sec. 6.70.240. Unlawful acts.**

- A. It shall be unlawful for any person under 21 years of age to be on or within the limited access area of any marijuana establishment.
- B. It shall be unlawful for any person to engage in any form of business or commerce or activity involving the cultivation, processing, manufacturing, storage, sale, distribution, testing, or consumption of any form of marijuana other than those forms of businesses and commerce and activities expressly contemplated under the applicable license by state law and this chapter.
- C. It shall be unlawful for any person to display, transfer, distribute, serve, sell, give away, allow consumption of, or dispose of any marijuana in a public place.
- D. It shall be unlawful for any person who is the holder of a license issued pursuant to this chapter or any manager or employee of such licensee to fail to immediately report to the department of public safety any disorderly conduct or criminal activity occurring at the location, on the premises, or within the licensed premises set forth on the license. For the purposes of this subsection, the terms "location" and "premises" shall have that meaning and definition set forth in C.R.S. § 44-10-103, and the term "licensed premises" shall have the meaning and definitions set forth in this chapter, and the term "report" shall mean to either:
  1. Immediately, verbally, and directly in person notify any on-site uniformed police officer;
  2. Place and complete a phone call to the non-emergency dispatch telephone number for the department of public safety; or
  3. Place and complete a telephone call to the emergency 911 operator.

Contacting individual officers out of uniform or not directly on the licensed premises shall not suffice as a report within the meaning of this subsection.

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- E. It shall be unlawful for any person to be a controlling beneficial owner of more than one marijuana store establishment licensed pursuant to this chapter.
- F. It shall be unlawful for any person to exercise any of the privileges granted by a license other than the person issued the license.
- G. It shall be unlawful for any person granted a license to allow any other person to exercise any privilege granted under their license.
- H. It shall be unlawful for any person to operate or be in physical control of any marijuana establishment while under the influence of any intoxicant, including, but not limited to, marijuana, fermented malt beverage, malt, vinous, or spirituous liquor, or a controlled substance.
- I. It shall be unlawful to possess extraction vessels, or butane (except within lighters or butane torches designed for personal use), propane, compressed CO<sub>2</sub>, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based marijuana concentrate, on the licensed premises.
- J. It shall be unlawful to violate or permit any person to violate any provision of this chapter or any condition of approval placed upon a license granted pursuant to this chapter, or any law, rule or regulation applicable to the use of marijuana or the operation of a marijuana establishment.
- K. It shall be unlawful to operate a marijuana establishment without a license from the city and the state.
- L. It shall be unlawful to operate a marijuana establishment in a manner that is not consistent with the application, or is in violation of any plan or condition made part of the license application.
- M. It shall be unlawful to operate a marijuana establishment without obtaining and passing all building inspections and obtaining all permits required by the city.
- N. It shall be unlawful to operate a marijuana establishment in violation of any building, fire, zoning, plumbing, electrical, or mechanical codes as adopted and amended by the city.
- O. It shall be unlawful to modify or allow any modification to the licensed premises without approval of the authority.
- P. It shall be unlawful to use or display a license at a different location or for a different business entity than in the location and business entity disclosed on the application for the issued license, except as provided in section 6.70.230.I.
- Q. It shall be unlawful to own or manage a marijuana establishment in which another person cultivates, produces, distributes, or possesses marijuana, in violation of this chapter or any other applicable law.
- R. It shall be unlawful to operate or possess a marijuana establishment in violation of this chapter, any ordinance of the city or any state law or regulation.

(Code 2009, § 6.70.240; Ord. No. O-2017-61, § 2, 10-10-2017; Ord. No. O-2019-34, § 2, 6-25-2019; Ord. No. O-2020-21, § 11, 4-28-2020; Ord. No. O-2020-39, § 6, 10-13-2020)

#### **Sec. 6.70.250. Disciplinary actions, sanctions, and civil penalties.**

- A. A violation of any of the provisions of this chapter, other applicable provisions of this Code, any applicable state law, or any of the rules or regulations adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marijuana, or any violation of any terms and conditions of a license issued by the authority pursuant to this chapter, may be grounds for additional terms and conditions being placed upon a license, for the denial of an application to renew a license, or for the suspension or revocation of a license.

Commented [TH6]: Do we still want this?

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- B. If the authority has probable cause to believe that a licensee has violated any provision of this chapter or engaged in conduct which imposes an undue risk to the public health, safety or welfare, the authority may enter an order for the summary suspension of such license, pending further investigation and hearing. No summary suspension shall be for a period exceeding 30 days.
- C. The authority may, after notice and hearing, impose a civil penalty, or suspend or revoke any license if the authority finds that:
1. The licensee has failed to pay all required fines, costs and fees;
  2. The licensee has failed to file tax returns when due as required by this Code, or the licensee is overdue on his or her payment to the city of taxes, fines, interest, or penalties assessed against or imposed upon such licensee in relation to the licensed business;
  3. The licensee has made any false statement in the license or renewal application;
  4. The licensee has failed to comply with his or her duty under section 6.70.150 to supplement the license application;
  5. The licensee has failed to file any reports, notifications, or furnish any information as required by the provisions of this Code, state law, or any rule or regulation adopted pursuant thereto relating to the operation of the marijuana establishment;
  6. The licensee has refused to allow an inspection or intentionally obstructs, impairs or hinders the inspection of the licensed premises as authorized by this Code or state law, by using or threatening to use violence, force, or physical interference or obstacle;
  7. The licensee has failed to operate the marijuana establishment in accordance with state law, this Code, any applicable building, fire, health or zoning statute, code, ordinance, or any rule and regulation adopted pursuant thereto, or of any special term and condition placed upon a license by the authority;
  8. The licensee has knowingly permitted or encouraged, or has knowingly and unreasonably failed to prevent a public nuisance within the meaning of chapter 9.04 from occurring in or about the licensed premises;
  9. The licensee has failed to comply with its security plan or other plans or materials included in its application;
  10. The licensee, or any of the agents or employees of the licensee, have committed any unlawful act, as described in this chapter, or violated any ordinance of the city or any state law on the premises or have permitted such a violation on the premises by any other person;
  11. The licensee engaged in any form of business or commerce in the city involving the cultivation, processing, manufacturing, storage, sale, distribution, testing, or consumption of any form of marijuana other than the privileges granted under their license;
  12. The licensee has materially or substantially changed, altered, or modified the licensed premises, or use of the licensed premises, without obtaining prior approval to make such changes, alterations, or modifications from the authority;
  13. The licensee has failed to maintain a valid state-issued license; or
  14. The odor of marijuana is perceptible to an ordinary person at the exterior of the building at the licensed premises or is perceptible within any space adjoining the licensed premises except as permitted pursuant to state law for the specific license type.
- D. The authority, in its sole discretion, may permit the licensee to pay a fine in lieu of license suspension or in lieu of part of the duration of a license suspension. Any fine imposed in lieu of a suspension by the authority shall not be less than \$500.00 and not more than \$100,000.00.

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- E. Any suspension of a license shall not be for a period longer than six months.
  - F. The authority may impose the costs to conduct a public hearing upon a licensee who has violated any of the provisions of this chapter. The costs to conduct such a public hearing shall be established by the authority.
  - G. Payment of any fine or costs pursuant to this section shall be in the form of cash or in the form of a certified check or cashier's check made payable to the city.
  - H. In connection with the suspension of a license, the authority may impose reasonable conditions upon the license.
  - I. In deciding whether a license should be suspended or revoked in accordance with this section, in deciding what conditions to impose in the event of a suspension, if any, and in deciding whether to allow payment of a fine in lieu of license suspension, the authority shall consider:
    - 1. The nature and seriousness of the violation;
    - 2. Corrective action, if any, taken by the licensee;
    - 3. Prior violations, if any, at the licensed premises by the licensee, the recency of such violations, and the effectiveness of any prior corrective action;
    - 4. The likelihood of recurrence;
    - 5. All circumstances surrounding the violation;
    - 6. Whether the violation was willful, knowing, or reckless;
    - 7. The length of time the license has been held by the licensee;
    - 8. Previous sanctions, if any, imposed against the licensee; and
    - 9. Any other factor making the situation with respect to the licensee or the licensed premises unique or the violation of greater concern.
  - J. If the authority finds that the license should be suspended or revoked or a fine imposed for all or part of a suspension, or conditions should be imposed upon the license, the licensee shall be provided written notice of such fine, suspension, conditions imposed, or revocation and the reasons therefor within 35 days following the date of the hearing.
  - K. If the authority suspends or revokes a license, imposes conditions, or imposes a fine in lieu of all or part of a suspension, the licensee may appeal the fine, suspension, or revocation pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the fine or conditions imposed or the suspension or revocation of the license.
  - L. No fee previously paid by a licensee in connection with a license shall be refunded if the licensee's license is suspended or revoked.

(Code 2009, § 6.70.250; Ord. No. O-2017-61, § 2, 10-10-2017)

#### **Sec. 6.70.260. Criminal penalties.**

Violation of any provision of this chapter or commission of any unlawful act described in section 6.70.240 shall be punishable under the general penalty of this Code as described in section 10.02.020. Each and every day a violation of the provisions of this chapter is committed, exists, or continues shall be deemed a separate offense.

(Code 2009, § 6.70.260; Ord. No. O-2017-61, § 2, 10-10-2017)

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**Sec. 6.70.270. Other remedies.**

The city is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove any violation or unlawful act under this chapter, and any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

(Code 2009, § 6.70.270; Ord. No. O-2017-61, § 2, 10-10-2017)

**Sec. 6.70.280. Rules and regulations.**

- A. The authority may make such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this chapter and any other ordinances or laws relating to and affecting the licensing and operation of marijuana establishments.
- B. It shall be unlawful for any person to violate a rule or regulation adopted by the authority pursuant to this section.

(Code 2009, § 6.70.280; Ord. No. O-2017-61, § 2, 10-10-2017)