

Chapter 16 Recreational Marijuana

6-16-1. Legislative Intent, Findings, and Purpose.

- (a) Legislative Intent and Findings. The city council intends to regulate the use, possession, cultivation, production, and distribution of marijuana in a manner that is consistent with Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment" also known as Amendment 64) and finds that the provisions of this chapter are directly and demonstrably related to the operation of marijuana establishments in a manner to minimize negative impacts on the community.
- (1) The city adopts this law to apply to all recreational marijuana operations in the city under the Recreational Marijuana Amendment, or any recreational marijuana business permitted under the state law.
 - (2) Marijuana use, distribution, cultivation, and production can have an impact on health, safety, and community resources, and the code is intended to permit marijuana cultivation, distribution, production, and testing where it will have a minimal impact, and potential negative impacts are minimized.
 - (3) Use, distribution, cultivation, production, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.
 - (4) The General Assembly has adopted enabling legislation that provides for local licensing, however, the state law is not intended to, and does not, address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana operations.
 - (5) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
 - (6) This chapter is to be construed to protect the public over marijuana business interests. Operation of a recreational marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have marijuana in the city.
 - (7) Marijuana businesses are a heavily regulated industry in the city, all licensees are assumed to be fully aware of the law, the city shall not therefore be required to issue warnings before issuing citations for violations of this chapter.
 - (8) This chapter is not intended to replace the medical marijuana law in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, and any person may apply for and operate a medical marijuana business pursuant to Chapter 6-14, "Medical Marijuana," B.R.C. 1981, without complying with this chapter.
 - (9) This chapter is intended to specify the time, place, and manner restrictions for operating a recreational marijuana business in the city as specified in the Recreational Marijuana Amendment.
 - (10) The operation of a marijuana business without a license from the city as provided in this chapter is prohibited within the city.
 - (11) The experience of the city in processing and enforcing medical marijuana business licensing evidences that the provisions herein are capable and worthy of being carried out in practice by a reasonably prudent businessperson.
 - (12) The Colorado Administrative Procedures Act, Article 4 of Title 24 of the Colorado Revised Statutes (the "APA"), does not apply to local governments and the state has not been able to resource the process

thereof in a timely manner. The procedures herein for issuance and enforcement of a recreational marijuana business license are consistent with the requirements of the APA and have been determined by the Boulder District Court to provide the level of due process required by the United States and Colorado Constitutions.

- (13) A licensee is not acting in his or her capacity as an owner, employee, or agent of a licensed marijuana establishment if the licensee is operating in violation of this chapter or any other applicable law.
 - (14) The city council has determined to allow marijuana establishments in the city on the condition that the establishments are operated in compliance with this chapter rather than banning marijuana establishments in the city as permitted by the Recreational Marijuana Amendment.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents, businesses, and property in the city by prescribing the manner in which recreational marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:
- (1) Provide for a means of cultivation, production, and distribution of marijuana to persons permitted to obtain, possess, and use marijuana for recreational purposes under the Recreational Marijuana Amendment;
 - (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air, and water quality, food safety, neighborhood and public safety, security for the business and its personnel, and other health and safety concerns;
 - (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas;
 - (4) Impose fees for licensing recreational marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program;
 - (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter;
 - (6) Create regulations that address the particular needs of the residents and businesses of the city and coordinate with laws that may be enacted by the State of Colorado regarding recreational marijuana;
 - (7) Facilitate the implementation of the Recreational Marijuana Amendment without going beyond the authority granted by it;
 - (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow recreational marijuana;
 - (9) Issue recreational marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials;
 - (10) Protect public safety and residential areas by limiting the areas of the city where more than six marijuana plants may be grown;
 - (11) Exclude from the definition of *recreational marijuana business* the private possession, production, and recreational use of marijuana by an individual or the private possession, production, distribution, and recreational use of marijuana by an individual, in the person's residence, to the extent permitted by Article XVIII, Section 16 of the Colorado Constitution; and
 - (12) Designate the city manager as the recreational marijuana licensing authority responsible for licensing recreational marijuana for the city.
- (c) 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 Colorado Constitution

and the Charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply.

- (d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under the Recreational Marijuana Amendment.

Ordinance No. 7930 (2013); 8081 (2015)

6-16-2. Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Addiction recovery facility shall have the same meaning as set forth in Section 9-16-1, "General Definitions," B.R.C. 1981.

Adult event means any event at which no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one. To be considered an adult event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over 21 years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than thirty percent of the audience, and those viewing advertising for the event, under the age of twenty-one. No event on city property or dedicated trails for which access and visibility cannot be controlled may be considered an adult event.

Advertise means the act of drawing the public's attention, whether on print, signs, or electronic means, to a recreational marijuana business in order to promote the sale of marijuana by the business.

Appealing to minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under twenty-one years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under twenty-one years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

Cannabis means Marijuana or Hemp.

Cold-Water Extraction means the mix of cold water and ice and marijuana with agitation and filtration to separate the trichomes from the marijuana plant.

Co-located marijuana business means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, that is permitted by the owner of the building and all applicable laws, to divide the licensed marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

Company material means any information printed or transmitted electronically that includes the name and logo of a particular marijuana business(es), and promotes the business or describes marijuana or marijuana-infused product distributed by the business(es). *Company material* may include promotion of the business to potential employees over the age of twenty-one, or investors, or instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

Coupon means a printed voucher or token entitling the holder to a discount for a particular product or service. *Coupon* does not include showing a government-issued verification of age or military status, or registration

for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.

Cultivation or cultivate means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Cultivation facility means a licensed recreational marijuana business that produces and harvests marijuana plants for distribution by a licensed marijuana business. Except as included in this definition, a cultivation facility may not operate any production other than cold-water extraction on its premises.

Distribute or distribution means the actual, constructive, or attempted transfer, delivery, sale, or dispensing of marijuana to another, with or without remuneration.

Educational material means materials prepared by a governmental or non-profit entity that are designed to provide information, facts, instructions, and warnings related to the legal use and consumption of marijuana and marijuana products. *Educational materials* do not include arguments for or against the legalization of marijuana or encourage the use of marijuana or advertisements, including the name and logo for any marijuana business.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 44-4-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. *Financier* shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits, or any person that has been qualified as a Permitted Economic Interest holder by the Marijuana Enforcement Division of the Colorado Department of Revenue.

Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. *Handbill, leaflet or flyer* does not include educational materials without the name or logo of a marijuana business, or information made available within the licensed premises of a marijuana business.

Hemp or Industrial Hemp means the plant from the genus cannabis and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis. Any increase of delta-9 tetrahydrocannabinol concentration over three-tenths of one percent on a dry-weight basis causes the cannabis to be regulated as marijuana even if it was grown as hemp or is intended to be sold as a hemp plant or product.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to sponsorship of charitable events means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs or similar items. *Incidental to sponsorship of a charitable event* does not include the placement of a booth or distribution of materials at the event by the marijuana business.

Job fair or educational seminar means an adult event held for the purpose of (a) connecting persons seeking jobs in a particular industry with employers in that industry or (b) educating others on matters related to the legal marijuana industry.

Keyholder means the individual designated by the owner of the recreational marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. *Keyholder* shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

Licensee means the recreational marijuana business named on the recreational marijuana business license, and all individuals named in the recreational marijuana business license application or later reported to the city, including, without limitation, owners, keyholders, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a recreational marijuana business.

Mall means the downtown Boulder Business Improvement District boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by Ordinance No. 4022 adopted February 18, 1975.

Malt, vinous, and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 44-3-103, C.R.S.

Marijuana for this Chapter 6-16 means:

- (1) The same as set forth in the Recreational Marijuana Amendment; or
- (2) As may be more fully defined in any applicable state law or regulation.

Marijuana accessories shall have the same meaning as in the Recreational Marijuana Amendment.

Marijuana business means any medical marijuana business as defined in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or recreational marijuana business as defined in this chapter.

Marijuana establishment means a recreational marijuana business that has a license from the State of Colorado and the city to operate.

Marijuana-infused product manufacturer means a licensed marijuana business that produces marijuana-infused products.

Marijuana testing facility means a recreational marijuana business that has been licensed as a marijuana testing facility by the state that is in good standing, and has a license in good standing with the city.

Marijuana warehouse means a marijuana establishment that is not licensed by the city as a medical marijuana business or a licensed recreational marijuana business. No marijuana warehouses are allowed in the city.

Minor means a person under twenty-one years of age.

Mixed use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of premises means a change to a marijuana business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the marijuana business license. *Modification of premises* does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Place open to the general public means any property owned, leased, or used by a public entity, and any place on private property open to the public, common areas of buildings, private club, vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. *Place open to the general public* shall not include (a) any fenced area of a private residence regardless of whether it can be seen from a place open to the public, or (b) any enclosed portion of a building not visible from a place open to the public which qualifies as an adult event.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times. The keyholder of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times that the keyholder is on the premises of the business or has been designated by the owner as the keyholder in the absence of the owner in accordance with this chapter.

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.

Private club means any location, other than a residence of a person at the residence, or a marijuana establishment.

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling, or relabeling of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Recreational marijuana means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, the Recreational Marijuana Amendment, and any other applicable law.

Recreational Marijuana Amendment means Article XVIII, Section 16 of the Colorado Constitution.

Recreational marijuana business means (a) any person that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or one ounce of marijuana, or (b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term recreational marijuana business shall not include the private cultivation, possession, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, or (b) one ounce of marijuana, or (c) the marijuana derived from no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.

Recreational marijuana center means a licensed recreational marijuana business that distributes marijuana to any person or other licensed recreational marijuana business.

Recreational marijuana-infused product means a product infused with marijuana that is processed for use or consumption, including, without limitation, edible products, concentrates, ointments, tinctures, and any item defined as a "marijuana product" in the Recreational Marijuana Amendment.

Recreational marijuana local licensing authority means the city manager. The manager shall be the local licensing authority responsible for processing applications under this chapter for the purpose of the Recreational Marijuana Amendment and any state law that requires the city to designate a local licensing authority.

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. *Recreational marijuana plant* shall include immature plants except where specifically excepted in this code. For purposes of this chapter, any part of the plant removed is considered harvested and no longer part of a recreational marijuana plant, but marijuana.

Restricted area means the portion of a recreational marijuana business premises within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce recreational marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the recreational marijuana business license application for the business.

Safe means a metal box, attached to the building structure, capable of being locked securely, constructed in a manner to prevent opening by human or mechanical force, or through the use of common tools, including but not limited to hammers, bolt cutters, crow bars or pry bars. The city manager may approve security devices such as vaults and strong rooms that are functionally equivalent to safes.

University Hill commercial area means the area described as the University Hill General Improvement District in Appendix 8-A of Title 8 of this code.

Violation of any law or violated any law means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Virtually separated marijuana business means a co-located marijuana business that is not separated into two different premises.

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014) ; 8081 (2015) ; 8157 (2016); 8240 (2018) ; 8276 (2018) ; 8393 (2020); 8437 (2020)

6-16-3. License Required.

- (a) License Required. It shall be unlawful for any person to operate a recreational marijuana business without obtaining a license to operate pursuant to the requirements of this chapter and holding a license in good standing from the state.
- (b) Additional Licenses and Permits May Be Required. 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 retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.
- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. 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 criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premise from which a recreational marijuana business is operated. Except as specifically provided in this chapter, no two or more different businesses, including recreational marijuana businesses, may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a recreational marijuana business and any adjacent business.
- (e) License Nontransferable; Exceptions. A recreational marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business (including another marijuana business), or to a different owner or licensee. A recreational 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 recreational marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed recreational marijuana business shall be permitted in the following circumstance:
 - (1) The new owner and all licensees of the business have submitted completed applications and passed a background check by the city;
 - (2) The new owner is not making changes to any of the plans or conditions that are part of the license; and
 - (3) One of the following:

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- (A) The license transfer location is permitted without the exception of Subsection 6-16-7(c) of this chapter; or
 - (B) The license transfer is an arms-length third party transaction to one hundred percent new owners and managers.
- (f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the recreational marijuana business license will be issued. The term of the license shall be the same as the existing medical marijuana business license.
- (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license by submitting an application for a co-located marijuana business on forms approved by the city. At a minimum, the application form shall include a modification of the existing medical marijuana business to conform to the new footprint of the medical marijuana portion of the co-located marijuana business and all components of the application described in Section 6-16-5, "Application," B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and paying the modification of premises fee and operating fee specified in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.
- (h) Conversion to a Co-located Marijuana Business in an Expansion of the Existing Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license within a footprint that is an expansion of its existing medical marijuana business by submitting an application for modification of the existing medical marijuana business, and an application for co-location of a medical and recreational business within the modified premises on forms approved by the city by March 1, 2014. At a minimum, the application shall include (i) the same owners and financiers of the existing medical marijuana businesses, (ii) the proposed modification of the existing and expanded area of the existing medical marijuana business to depict the two new businesses separated as required by this code, (iii) all components of the application described in Section 6-16-5, "Application," B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and (iv) the modification of premises fee, conversion fee, and operating fee specified in Section 6-16-5, "Application," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.
- (i) Virtual Separation of Co-located Marijuana Business. A co-located business may be virtually rather than physically separated if the businesses provide evidence that they have maintained their respective books and

records in compliance with Section 6-16-9 of this chapter for the twelve months preceding the application for virtual co-location. For businesses that have been open for less than twelve months and those who have not complied with Section 6-16-9 in the past, the business shall provide evidence satisfactory to the city manager of the manner in which it will comply with Section 6-16-9.

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014) ; 8031 (2015) ; 8081 (2015) ; 8157 (2016); 8345 (2019)

6-16-4. General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to recreational marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the provisions of this chapter shall control for recreational marijuana business licenses.
- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove marijuana of any recreational marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Reserved.
- (f) Forfeiture of License. In the event that a recreational marijuana business does not commence operations within thirty days of issuance of a license from the city, the license shall be deemed forfeited, and the business may not commence operations.
- (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a recreational marijuana business unless the tenant has a valid recreational marijuana business license or has applied for and not been denied a recreational marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a recreational 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 recreational marijuana business is located to determine whether any marijuana is on the premises.
- (h) Requirements for Applications for Conversion to a Recreational Marijuana Business or Co-Location of Marijuana Businesses.
 - (1) As a condition of the city accepting an application for conversion of a medical marijuana business to a recreational marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business.
 - (2) As a condition of the city accepting an application for conversion to a co-located marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business.

Ordinance Nos. 7930 (2013); 8081 (2015) ; 8157 (2016)

6-16-5. Application; Modification of Premises.

- (a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
- (1) Name and address of the owner or owners of the recreational marijuana business in whose name the license is proposed to be issued.
 - (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
 - (B) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
 - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity and contact information for that person.
 - (2) Name and address of:
 - (A) Any keyholders of the recreational marijuana business, if the keyholder is proposed to be someone other than the owner;
 - (B) All financiers of the recreational marijuana business; and
 - (C) All agents of the recreational marijuana business who either (I) act with managerial authority, (II) provide advice to the recreational marijuana business for compensation, or (III) receive periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of recreational marijuana.
 - (3) A statement of whether or not any of the named owners, members, keyholders, financiers, or persons named on the application have been:
 - (A) Denied an application for a marijuana business license pursuant to this chapter, Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Denied an application for a liquor license pursuant to Title 12, Article 47 or Article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.
 - (C) Violated any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.
 - (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.

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- (4) Proof of ownership or legal possession of the restricted area for a recreational marijuana business for the term of the proposed license. If the recreational marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
 - (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
 - (6) An operating plan for the proposed recreational marijuana business, including the following information:
 - (A) A description of the products and services to be provided by the recreational marijuana business.
 - (B) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the recreational marijuana business is to be located;
 - (ii) The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where underage persons will be permitted, storage areas, retail areas, and restricted areas where recreational marijuana will be located;
 - (iii) Areas where any services other than the distribution of recreational marijuana are proposed to occur in the premises; and
 - (iv) The separation of the areas that are open to persons who are underage from those areas open to persons qualified to use marijuana.
 - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.
 - (D) For cultivation facilities and marijuana-infused product manufacturers and marijuana testing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.
 - (E) For a marijuana-infused product manufacturer or a marijuana testing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or testing any marijuana, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The city shall require the manufacturer or testing facility to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons, and comply with all applicable laws.
 - (F) The maximum amount of marijuana or marijuana-infused products that may be on the business premises.
 - (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule, or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
 - (8) A lighting plan showing the lighting outside of the marijuana business for security purposes and compliance with applicable city requirements.
 - (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of

the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed-use development containing one or more residences.

- (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, keyholders, and financiers employed by or under contract to provide services to the recreational marijuana business, including all individuals who have an interest as described herein of any portion of the recreational marijuana business, directly or as an agent, or a member, partner, or officer of a corporation, partnership, association, or company, and the reports from the Colorado and Federal Bureau of Investigation for each person.
- (11) A plan for disposal of any recreational marijuana or marijuana-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- (12) A plan for ventilation of the marijuana business that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marijuana-infused product manufacturers and marijuana testing facilities, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- (13) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used, kept, or created at the marijuana business, the location of such materials and how such materials will be stored.
- (14) A description of the processes used to extract or distill marijuana from its source and the process used to incorporate marijuana into all products produced, including verifying compliance of all processes regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business.
- (15) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.
- (16) Modifications to Approved Recreational Marijuana Business License. Prior to making a modification of a marijuana business that would require a building permit or change items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit to the city and have approved, when necessary, a complete application for modification of premises in the form provided by the city.
- (17) Cold-Water Extraction at Recreational Marijuana Cultivation Facility. An area for Cold Water Extraction may be added to a recreational marijuana cultivation facility on the following conditions:
 - (A) The cold-water extraction is conducted in a separate room within the footprint of the cultivation facility;
 - (B) The addition of the room for the cold-water extraction shall be a modification of the premises and the application and construction of the cold-water extraction room shall comply with all requirements for a major modification of a marijuana-infused product manufacturer;
 - (B) The requirements for a cold-water extraction room shall be the same as required for a marijuana-infused production facility and the application and operation of the cold-water extraction room shall comply with all requirements for such marijuana-infused production facility; and

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- (C) The cold-water extraction room shall be considered a separate marijuana business for all purposes of this code, except that it shall not be subject to the location restrictions separately from the marijuana cultivation facility.
- (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, keyholder, financier, or other person named on the application contains information regarding violations of any law, or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, and other regulatory licenses held without compliance violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.
- (c) Fee Required. Any application for a license for a marijuana business under this chapter shall be accompanied by the operating fee, criminal background fee, annual license fee, and any other applicable fees, as required by Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. Unless the State of Colorado has forwarded the application fee pursuant to Colorado Constitution Art. XVIII, § 16(5)(g)(II) to the city, the applicant shall submit the application fee set forth in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C., 1981 to the city with the application.
- (d) Inspection. An inspection of the proposed recreational marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any recreational marijuana, and prior to the opening of the business to the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this code and any other applicable law, rule, or regulation.
- (e) Complete Application. For purposes of this chapter, an application shall not be considered complete until the city manager has (i) determined that all requirements of the application have been provided to the city, (ii) received the reports from the fingerprint cards of each person required to submit such cards from the Colorado and Federal Bureau of Investigation, (iii) received the local share of \$2,500 for the application fee from the State of Colorado, and (iv) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
- (f) Approval Requirements. The city manager may issue a recreational marijuana business license if the inspection, background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fee, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information. The conditions of an approval of a recreational marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance Nos. 7930 (2013); 8157 (2016); 8240 (2018)

6-16-6. Persons Prohibited as Licensees and Keyholders.

- (a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a recreational marijuana business, and no license provided by this chapter shall be issued to or held by, and no recreational marijuana business shall be managed by:
- (1) Any person until the annual fee for the license has been paid;

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- (2) Any person not of good moral character;
 - (3) Any corporation, any of whose officers, directors, or stockholders are not of good moral character;
 - (4) Any partnership, association, or company, any of whose officers or members holding an interest therein, or a managing member, is not of good moral character;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;
 - (6) Any person, unless such person's character, record, and reputation are satisfactory to the city manager;
 - (7) Any natural person who is under twenty-one years of age;
 - (8) Any person who operates or manages a recreational marijuana business contrary to the provisions of this chapter, any other applicable law, rule, or regulation, or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;
 - (9) Any person applying for a license to operate a recreational marijuana center who has been licensed to operate another recreational marijuana center in the city pursuant to this chapter;
 - (10) Any person applying for a license to operate a marijuana-infused product manufacturer facility who has been licensed to operate another marijuana-infused product manufacturer facility in the city pursuant to this chapter;
 - (11) A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
 - (12) A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
 - (13) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S. has been revoked by the state health agency;
 - (14) A person that is a licensee for the application location that is currently licensed as a retail food establishment or a wholesale food registrant; or
 - (15) Any person applying for a license to operate a marijuana center who has been licensed to operate three other marijuana centers in the city pursuant to either this chapter or Chapter 6-14. For purposes of this subparagraph only, one co-located medical and recreational marijuana center is considered one marijuana center.
- (b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:
- (1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;
 - (2) Verification of, or lack of ability to verify, items disclosed by the individual;
 - (3) When an individual has a history of violation of any law, or a history including denial, revocation, or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse, or other violations of any laws that may directly affect the individual's ability to operate a recreational marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;

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- (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a recreational marijuana business;
 - (5) Rules adopted by the manager to implement this chapter;
 - (6) Law, rules, and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and
 - (7) Any additional information the manager may request of the individual if the individual has a violation of any laws, evidence of substance abuse issue, or items disclosed by the individual which require additional information in order for the manager to make a determination regarding issuance of the license.

Ordinance Nos. 7930 (2013); 8157 (2016)

6-16-7. Locations of Recreational Marijuana Businesses.

- (a) **Fixed Location Required.** It shall be unlawful to operate a recreational marijuana business or to grow recreational marijuana outside of a locked enclosed space within a building. All recreational marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows recreational marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.
- (b) **Location - Permitted Use in Zoning District.** A recreational marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located, as follows:
 - (1) as "personal service" for a recreational marijuana center;
 - (2) as "greenhouse/nursery" for a recreational marijuana cultivation facility; or
 - (3) as "manufacturing ≤ 15,000 square feet" for a recreational marijuana cultivation facility, for a marijuana-infused product manufacturer, or for a marijuana testing facility.
- (c) **No Recreational Marijuana Business in Building With Residences or Residential Zone Districts.** It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence.
- (d) **No Retail Sales in Cultivation Facilities or Manufacturing.** It shall be unlawful for any person to permit retail sales within a recreational marijuana business that is not a licensed recreational marijuana center.
- (e) **Separation From Schools and Other Facilities.**
 - (1) No recreational marijuana center license shall be issued for a recreational marijuana center at a location within one thousand feet of any public or private elementary, vocational, or secondary school, or a college, university, or a state licensed day care center, or an addiction recovery facility. Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or named facility.
 - (2) Reserved.
 - (3) No recreational business license shall be issued for a recreational marijuana business at a location within five hundred feet of three other cannabis businesses.
 - (4) No recreational marijuana business license shall be issued for a recreational marijuana center at a location on the street level of the mall or the University Hill commercial area.

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- (5) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other recreational marijuana business.
 - (6) To determine the proximity to other recreational marijuana businesses and the priority of applications, businesses shall have priority in the following order:
 - (A) Licensed medical marijuana businesses;
 - (B) Marijuana establishment;
 - (C) Businesses for either medical or recreational business whose applications have been approved but licenses not yet issued;
 - (D) Applications for medical or recreational marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
 - (E) No other applications shall be considered "businesses" for this determination.
 - (7) Businesses that convert all or part of a medical marijuana business pursuant to Subsection 6-16-3(f) of this code are not subject to Paragraphs (1), (2), and (3) of this subsection. This exception is not transferrable.
 - (8) For purposes of this paragraph, *school, college, or university* shall include properties owned by such entities only if they are used to provide services, teaching facilities, or living facilities to students. No distance is required between a marijuana business and properties owned by a *school, college, or university* that are not used to provide teaching facilities, living facilities, or services to students.
 - (f) Limitations on Dual Licenses. A recreational marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981, or a marijuana business license under this chapter or Chapter 6-14, "Medical Marijuana," B.R.C. 1981.
 - (g) Limitations on Recreational Marijuana Centers and Co-Located Marijuana Center. The following shall be the minimum requirements for a recreational marijuana center and a co-located marijuana center:
 - (1) The area of the business is less than or equal to three thousand square feet;
 - (2) There is a separate reception area for verification of age that has an occupancy limit appropriate for the anticipated customers of the business; and
 - (3) For co-located centers, there is a private consultation room.
 - (h) Limitations on Recreational Marijuana-Infused Product Manufacturers and Marijuana Testing Facilities. The area of the premises may not be more than fifteen thousand square feet.
 - (i) Limitation on Cultivation Facility Licenses. No licensee shall hold licenses for more than five marijuana cultivation facilities. This limitation limits the total number of cultivation facility licenses, including both licenses for medical and recreational marijuana cultivation facilities. The area of the premises of a cultivation facility may not be more than fifteen thousand square feet.

Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015) ; 8157 (2016); 8240 (2018) ; 8393 (2020)

6-16-8. Requirements Related to Operation of Recreational Marijuana Businesses.

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the recreational marijuana business.
- (b) Restriction on Access to Business.

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- (1) No person under twenty-one years of age shall be in the business premises. No person shall be allowed entry into the business premises area without showing a valid picture identification. Recreational marijuana centers shall have an electronic scanner able to verify the legitimacy of the identification and maintain records for enforcement, as approved by the city manager. If a person does not have a valid picture identification that the person is at least twenty-one years of age, the owner or keyholder on the premises shall require that the person leave the business and any surrounding area possessed or controlled by the business. In the event the person has a valid government-issued proof of age that cannot be scanned, such as a passport or military ID, the business shall be allowed access so long as the ID reasonably appears to be accurate and valid.
 - (2) No person, other than an employee or contractor of the business or a visitor shall be permitted in the restricted area of the business. For purposes of this subsection, a visitor means a person that is accessing the restricted area for educational purposes. No access to the restricted area may be permitted by tourists or for compensation. The business must require that all visitors comply with all requirements for access to limited access areas as required by the Colorado Marijuana Enforcement Division. The log required shall be maintained on the business premises and available for inspection upon request by the city.
 - (c) Display of Licenses Required. The name and contact information for the owner or owners and any keyholder of the recreational marijuana business, the recreational marijuana business license, and the sales tax business license shall be conspicuously posted in the business.
 - (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a recreational marijuana business and shall not be visible from the exterior of the business.
 - (e) Owner or Keyholder Required on Premises. No recreational marijuana business shall be managed by any person other than the licensee or the keyholder listed on the application for the license or a renewal thereof. Such licensee or keyholder shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person.
 - (1) In the event the licensee intends to employ a keyholder that was not identified on the license or renewal application, the licensee shall report the name of such keyholder to the city, and such keyholder shall submit to the city, at least thirty days prior to commencing serving as the keyholder, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in keyholders at least thirty days prior to employing an additional keyholder, and no more than five days after a keyholder is released from such position.
 - (2) In the event the licensee submits a completed application for the new keyholder with a copy of a valid badge issued by the state Marijuana Enforcement Division, the applicant may work as a keyholder for the licensee upon submission of the application up until final city determination is made on such application.
 - (3) For a co-located marijuana business that is physically separated, there shall be two keyholders, one designated for each license, within the co-located business. For a co-located marijuana business that is virtually separated, only one keyholder is required within the co-located business.
 - (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 10 p.m. and 8 a.m. 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.
 - (g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a

recreational marijuana business. A recreational marijuana business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.

- (h) Ventilation Required. A recreational marijuana business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the recreational marijuana business or at any adjoining use or property.
- (i) Renewable Energy Requirements. A marijuana cultivation facility shall directly offset one hundred percent of its electricity consumption through a verified subscription in a Community Solar Garden, or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For a recreational marijuana center that has converted pursuant to Subsection 6-16-3(f) or co-located pursuant to Subsection 6-16-3(g), or a marijuana-infused product manufacturer licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the marijuana business license following October 22, 2013.
- (j) Limitations on Inventory. The recreational marijuana business shall not maintain any more marijuana within the premises than the amount stated on the business' license application to the State of Colorado and city. No plants shall be located in a recreational marijuana center or a marijuana-infused product manufacturer or a marijuana testing facility.
- (k) Reporting Requirements. A recreational marijuana business shall report to the recreational marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.
 - (1) Transfer or change of financial interest, keyholder, or financier in the license to the city at least thirty days before the transfer or change;
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly;
 - (3) A violation of any law by any licensee or applicant of a recreational marijuana business;
 - (4) A notice of potential violation of any law related to the licensee;
 - (5) Upon city request, any report that the recreational marijuana business is required to provide to the State of Colorado that is reasonably necessary for compliance with city law; or
 - (6) Reports of all criminal activities or attempts of violation of any law at the recreational marijuana business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed marijuana business, all sales of recreational marijuana shall be made in person in the restricted area of a recreational marijuana center. All marijuana sales shall be in person, directly to the purchaser. No marijuana sales shall be made via telephone, internet, or other means of remote purchase. Deliveries of marijuana shall occur only in person to the purchaser at the time of purchase in the restricted area of a recreational marijuana center.
- (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to transport recreational marijuana, except as specifically allowed by applicable law, unless the recreational marijuana being transported meets the following requirements:
 - (1) All marijuana-infused products are packaged, sealed, and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section;
 - (2) All recreational marijuana in a usable form is packaged and stored in closed containers that are labeled as provided in this section;
 - (3) Each container used to transport recreational marijuana is labeled with the amount of recreational marijuana or marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the recreational marijuana business that the recreational

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- marijuana is being transported from, and the name and address of the recreational marijuana business that the recreational marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label;
- (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be transported with proper bill of sale completed before transport only to another recreational marijuana business;
 - (5) The recreational marijuana must be accompanied by the manifest in accordance with state requirements for transportation of recreational marijuana;
 - (6) The recreational marijuana must be accompanied by the email receipt confirmation from the Boulder Police Department in accordance with the rules therefor established by the police department;
 - (7) When determining and reporting the route for delivery, licensees should select the most direct route that provides efficiency and safety; and
 - (8) Transport may be initiated from a marijuana business only during the hours allowed for operation of the center.
- (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the recreational marijuana plants within a recreational marijuana business may be mature, flowering plants.
- (p) Advertisement. A recreational marijuana business may not advertise in a manner except as specifically provided in Subparagraph (p)(2).
- (1) Prohibitions. The exceptions in Subparagraph (2) below shall not apply to advertising that is:
 - (A) misleading, deceptive, false, or designed to appeal to minors. The following conditions shall apply:
 - (B) in plain view of, or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property;
 - (C) on a product marked with the name or logo of a marijuana business, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors;
 - (D) distributed without charge within a marijuana business or any place open to the public; or
 - (E) contrary to any provisions of C.R.S. §§ 12-43.3 et seq. or 12-43.4, et seq. or any regulations adopted thereto.
 - (2) Exceptions: The prohibition set forth in this subsection (p) shall not apply to:
 - (A) Any sign located on the same zone lot as a recreational marijuana center which exists solely for the purpose of identifying the location of the recreational marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address and days and hours of operation of the center;
 - (B) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet, which may include coupons;
 - (C) Any non-consumable merchandise or accessories;

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- (D) Advertising which is purely incidental to sponsorship of a charitable event by a recreational marijuana business;
 - (E) A booth at an adult event where the only items distributed are company or educational materials no other items are distributed, shown or sold;
 - (F) Business cards within the business or handed directly to an individual over the age of 21;
 - (G) Showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service; or
 - (H) Company materials and educational materials distributed inside the marijuana business.
- (q) The owner or a keyholder of a recreational marijuana business is required to respond by phone or email within twenty-four hours of contact by a city official concerning its recreational marijuana 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 an owner or manager does not respond to the city official shall be considered a separate violation.
- (r) Separation of Marijuana Businesses - Exceptions for Co-located Businesses.
- (1) A cultivation facility and manufacturer are separate marijuana businesses requiring separate licenses and separate premises. A medical marijuana cultivation or manufacturing facility and a recreational marijuana cultivation or manufacturing facility are separate marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
 - (A) Have separate operations, heating-ventilation-air conditioning, security, and fire suppression systems, and separate access from a public area;
 - (B) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a recreational marijuana business and any adjacent business; and
 - (C) Obtain delivery documents and manifests and pay applicable excise tax for movement of any marijuana between the cultivation facility and the manufacturer.
 - (2) A co-located business, including a cold-water extraction facility that is part of a cultivation facility, is excepted from the requirements for separate heating-ventilation-air conditioning (except as required by the industrial hygienist), security, or fire suppression.
 - (3) A cultivation and cold-water extraction facility that is a co-located business is exempt from the requirement for separate access from a public area, so long as the interior connection between the two maintains the required physical and fire separation required between licensed premises.
- (s) Additional Requirements for Testing or Production of Recreational Marijuana.
- (1) No recreational marijuana business may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist; and
 - (2) The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

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- (t) Packaging at a Recreational Marijuana Center. Provided that recreational marijuana has been delivered to a recreational marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a recreational marijuana center may package and label any marijuana that results from the sale of recreational marijuana in amounts less than as packaged for delivery to the center.
 - (u) Packaging of Marijuana-Infused Product. Unless the actual amount of marijuana in a marijuana-infused product is contained on the label of the packaged product, any product over one ounce shall be presumed to have more than one ounce of marijuana in the product.
 - (v) Scanner for Proof of Age. The recreational marijuana center shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes that contains all of the components approved by the city manager. For legitimate identifications that cannot be scanned, including passports, military IDs and other lawful government issued identification, use of the electronic ID scanner is not required, but the business shall be responsible for verifying that the identification provided is reliable verification of the age of the person.
 - (w) Organization of Cultivation Facilities and Marijuana-Infused Product Manufacturers. All cultivation facilities and marijuana-infused product manufacturers shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and inventory and to exits.
 - (x) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has reasonable cause to believe that person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana or marijuana product, the licensee or employee shall be authorized to confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be turned over to the Boulder Police Department
 - (y) Virtually-separated centers or cultivation facilities. A virtually-separated marijuana business shall maintain separate marijuana business licenses, with separate books, records and inventories of all transactions. For purposes of sales, use and excise tax, all transactions shall be considered recreational marijuana unless the business can prove that the transaction was for medical marijuana. A virtually-separated marijuana business may not allow entrance to anyone under 21 years of age on the premises of the business. The floor plan for a virtually separated center shall depict the separate sales counters, display and storage areas for recreational and medical marijuana. A violation of any of the requirements of this code for a virtually separated business is a public safety violation.
 - (z) Sale of Immature Plants. A marijuana center may not sell immature plants, unless (a) no more than six (6) immature plants are sold to any one customer, and, (b) the immature plants are not transferred from the marijuana cultivation facility to the center until the day the patient is to pick up the immature plants and no immature plants are maintained at the center overnight. The business may require a deposit with any pre-orders.

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014) ; 8081 (2015) ; 8157 (2016); 8240 (2018) ; 8307 (2019) ; 8319 (2019); 8437 (2020)

6-16-9. Right of Entry - Records to Be Maintained.

- (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered

receipts and used for each sale. The records of the business shall clearly track recreational marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any recreational marijuana from other paraphernalia or services offered by the recreational marijuana business. The licensee shall also maintain inventory records evidencing that no more recreational marijuana was within the recreational marijuana business than allowed by applicable law. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, and dates for all recreational marijuana sold.

- (b) Reserved.
- (c) Disclosure of Records. By applying for a recreational marijuana business license, the licensee is providing consent to disclose the information required by this chapter. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
- (d) Audits. The city may require an audit to be made of the books of account and records of a recreational marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the recreational marijuana business. The expense of any audit determined necessary by the city shall be paid by the recreational marijuana business.
- (e) Consent to Inspection. Application for a recreational marijuana business license or operation of a recreational marijuana business, or leasing property to a recreational marijuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, to permit the city manager to conduct routine inspections of the recreational marijuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner or keyholder on duty shall retrieve and provide the records of the business pertaining to the inspection, including the security tapes from the cameras required by the security plan. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of recreational marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the recreational marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a recreational marijuana business license constitutes consent to inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a recreational marijuana license without a search warrant.
- (f) Reporting of Source, Quantity, and Sales. The records to be maintained by each recreational marijuana business shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and retail sales transactions, the following:
 - (1) Date, weight, type of marijuana, and dollar amount or other consideration of transaction;
 - (2) For wholesale transactions, the State of Colorado, and city, if any, sales and use tax license number of the seller; and
 - (3) The amount of marijuana within the restricted area.

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- (g) Reporting of Energy Use and Compliance with Renewable Energy Requirements. The records to be maintained and submitted to the city by each recreational marijuana cultivation facility shall include, without limitation, records showing on a monthly basis the use and source of energy and any renewable energy generated onsite or through a Community Solar Garden subscription. Such records shall include all statements, reports, or receipts to verify the items included in the report of the business. By application for a recreational marijuana business license from the city for a cultivation facility, the recreational marijuana cultivation facility grants permission to providers of the energy or other renewable energy acquisition program to disclose the records of the business to the city. Recreational marijuana businesses shall maintain records showing compliance with the renewable energy requirements in this chapter.

Ordinance No. 7930 (2013); 8081 (2015) ; 8157 (2016); 8240 (2018) ; 8307 (2019)

6-16-10. Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. Except for a co-located marijuana business that is virtually separated, a separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) Cameras. The recreational marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms), and where persons may gain or attempt to gain access to marijuana or cash maintained by the recreational marijuana business. Cameras shall record operations of the business to the offsite location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within seventy-two hours of any change of such location.
- (b) Use of Safe for Storage. The recreational marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe, so long as the container is affixed to the building structure.
- (c) Alarm System. The recreational marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four 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 be updated within seventy-two hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.

Ordinance No. 7930 (2013); 8157 (2016); 8240 (2018)

6-16-11. Requirements for Public Health and Labeling.

- (a) Recreational Marijuana-Infused Products. The production of any marijuana-infused product shall be at a marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all

applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the recreational marijuana-infused products were food items.

- (b) Labeling and Packaging Requirements. All recreational marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that is in compliance with all applicable requirements of the State of Colorado and any other applicable law.
- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance Nos. 7930 (2013); 8157 (2016)

6-16-12. Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for recreational use shall also apply to recreational marijuana businesses in the city. Provided, however, that, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No recreational marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses, or if a recreational marijuana business is denied a recreational marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (c) Revocable Privilege. A recreational marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance No. 7930 (2013)

6-16-13. Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Unlawful to sell or distribute marijuana to any persons under the age of twenty-one;
 - (2) Cultivate, distribute, produce, smoke, use, or ingest marijuana openly or publicly in a place open to the general public;
 - (3) Smoke, use, or ingest on the premises of the recreational marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous, and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges;

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- (4) Operate or be in physical control of any recreational marijuana business, liquor establishment, vehicle, aircraft, or motorboat while under the influence of alcohol or marijuana or other intoxicant;
 - (5) Possess more than six marijuana plants without a recreational marijuana business license for a cultivation facility;
 - (6) Possess more than one ounce of a usable form of marijuana without a recreational marijuana business license for a center or a marijuana-infused product manufacturer;
 - (7) Obtain marijuana for remuneration from a person who is not licensed as a recreational marijuana business;
 - (8) Possess or operate a recreational marijuana business in violation of this chapter;
 - (9) Produce, distribute, or possess more marijuana than allowed in this chapter, or than disclosed in the application to the State of Colorado for a recreational marijuana business license, or other applicable law;
 - (10) Distribute marijuana for remuneration without a recreational marijuana business license or outside of the restricted area of the recreational marijuana business;
 - (11) Possess recreational marijuana, or own or manage a recreational marijuana business, or own or manage a building with a recreational marijuana business, where there is possession of recreational marijuana, by a person who is not lawfully permitted to possess recreational marijuana;
 - (12) Possess or operate a recreational marijuana business in a location or in a manner for which a recreational marijuana business license is prohibited by the terms of this chapter;
 - (13) Operate a recreational marijuana business without a recreational marijuana business license from the city;
 - (14) Operate a recreational marijuana business in a manner that is not consistent with the items disclosed in the application for the recreational marijuana business, or is in violation of any plan made part of the license application;
 - (15) Operate a recreational marijuana business without disclosing, in the application for a recreational marijuana business license or an amendment thereto, an agent who either (1) acts with managerial authority, (2) provides advice to the recreational marijuana business for compensation, or (3) receives periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person;
 - (16) Own or manage a recreational marijuana business where distribution occurs of a marijuana-infused product that was produced in a manner that is not in compliance with this chapter;
 - (17) Operate a recreational marijuana business without a recreational marijuana business license prior to passing the inspection required by this chapter;
 - (18) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city;
 - (19) Attempt to use or display a recreational marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license;
 - (20) Own or manage a recreational marijuana business in which another person cultivates, produces, distributes, or possesses marijuana, in violation of this chapter or any other applicable law;

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- (21) Allow an owner or keyholder that has not been disclosed to the city as required by this chapter to operate the business;
 - (22) Own, manage, or possess a recreational marijuana business where marijuana is outside of the restricted area portion of such business;
 - (23) Possess a number of flowering plants that is more than one-half of the recreational marijuana plants that are lawfully possessed by a person;
 - (24) Dispose of marijuana or any byproduct of marijuana containing marijuana in a manner contrary to this chapter;
 - (25) Distribute a marijuana plant to any person, except as provided in this chapter for immature plants;
 - (26) Deliver or transport marijuana to a person or between recreational marijuana businesses in a manner contrary to this chapter or other law;
 - (27) Refuse to allow inspection of a recreational marijuana business upon request of a city employee or consultant of the city. Any licensee, owner, keyholder, or operator of a recreational marijuana business, or the owner of the property where a recreational marijuana business is located, may be charged with this violation;
 - (28) Advertise or publish materials, honor coupons, sell or give away products, or display signs that are in violation of this code;
 - (29) Violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
 - (30) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
 - (31) Lease any property to a recreational marijuana business that has marijuana on the property without a recreational marijuana business license from the city;
 - (32) Operate a private club where marijuana is possessed or used by any person at the private club;
 - (33) Remove marijuana harvested from a plant from the enclosed, locked space where the plant was grown, except as provided in this chapter;
 - (34) Distribute marijuana within a recreational marijuana center to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs;
 - (35) Permit a minor on the premises of the business;
 - (36) Fail to respond by phone or email as required by Subsection 6-16-8(q) of this chapter;
 - (37) Produce any marijuana without a license from the city for a marijuana-infused product manufacturer;
 - (38) Distribute, or contract to distribute, marijuana using any freight or package service, community rideshare, or other commercial transportation network, not including the United States Postal Service, unless such transporter has a license from the state to transport marijuana;
 - (39) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based marijuana concentrate, in the same premise as marijuana without a license from the city as a marijuana-infused product manufacturer or a marijuana testing facility;

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- (40) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other periodical of general circulation within the city or on the internet;
 - (41) Failure to provide a copy or record of a coupon authorized under this chapter upon request of an authorized city employee;
 - (42) Failure to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person or disruption to the business;
 - (43) Failure to post the premises during a suspension;
 - (44) Distribute any consumable product, other than bottled water, that is not cannabis or a cannabis-infused product.
- (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, mental confusion, slowed responses, rigid muscles, body tremors, or dry mouth, or any other indicators of impairment.
- Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015) ; 8157 (2016); 8240 (2018) ; 8436 (2021)

6-16-14. Suspension or Revocation of License; Imposition of Fines.

- (a) A recreational marijuana business license may be suspended or revoked for any of the following violations:
- (1) Conviction of the business, a licensee, or any owner, keyholder, or financier of any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the recreational marijuana business;
 - (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application;
 - (4) Distribution of recreational marijuana, including, without limitation, delivering or transporting marijuana, in violation of this chapter or any other applicable law, rule, or regulation;
 - (5) Operation of a recreational marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter;
 - (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, keyholders, financier, or agent;
 - (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or Colorado Department of Public Health and Environment, or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law;
 - (9) Revocation or suspension of another recreational marijuana business license or any other license issued by the city, the State of Colorado, or any other jurisdiction held by any licensee of the recreational marijuana business; or

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- (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.
 - (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.
 - (c) Civil penalties for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.
 - (d) If the city revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Boulder Police Department.
 - (e) In the event of the suspension of a marijuana business license, the marijuana business, during the suspension period:
 - (1) Shall post two notices as provided by the Marijuana Licensing Authority, in conspicuous places, one on the exterior and one on the interior of its premises for the duration of the suspension; and
 - (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers into the licensed premises.

Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015) ; 8157 (2016)

6-16-15. Term of License - Renewals - Expiration of License.

- (a) Term of License. A recreational marijuana business license shall be valid for one year. The license shall expire on the date stated on the license, but no more than twenty-four months, to facilitate the administration by the city of renewals and coordinate with the date for renewal of the state license of such licenses.
- (b) Renewal of License. The licensee shall apply for renewal of the recreational marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five 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 submits a late filing fee of \$5,000 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
 - (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 keyholder, 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 business 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.

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- (5) The renewal application shall include: (i) verification that the business has a valid state license and the state license is in good standing; and (ii) a list from the licensee of the city-approved keyholders who are employed at the licensed location to be renewed.
 - (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 police report numbers or case numbers of all police calls to the recreational marijuana business; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.
 - (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
 - (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-16-4(e) of this chapter.
- (c) Nonpayment of Tax. In the event a recreational marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the recreational marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
 - (d) Expiration of License. Expiration of a recreational marijuana business license for any reason, including, without limitation, pursuant to Subsection (c) of this section, shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

Ordinance Nos. 7930 (2013); 8157 (2016); 8240 (2018)

6-16-16. City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance No. 7930 (2013)