

ARTICLE 050.080 MEDICAL MARIJUANA

050.080.010 Purpose.

The City Council intends to regulate the use, acquisition, production and distribution of medical marijuana in a manner consistent with Article XVIII, Section 14 of the Colorado Constitution, C.R.S. Article 10 of Title 44 and any other applicable laws and regulations of the state. Nothing within this article is intended to promote or condone the production, use, sale or distribution of medical marijuana other than in compliance with applicable state law.

(5-97; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.020 Definitions.

The following words, terms and phrases, when used in this article, have the following meanings ascribed to them except where the context clearly indicates that City Council intended a different meaning:

Amendment 64 shall mean Article XVIII, Section 16 of the Colorado Constitution.

Business manager means the individual designated by the owner of the medical marijuana business and registered with the City as the person responsible for all operations of the business during the owner's absence from the business premises.

City Code means the Glenwood Springs Municipal Code, as amended.

Colorado Marijuana Code or *CMC* shall mean C.R.S. Article 10 of Title 44, as amended.

Colorado Retail Marijuana Code shall mean C.R.S. Article 43.3 of Title 12, as amended.

Cultivation means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant. Cultivation does not include the storing or watering of mature marijuana plants without the aid of grow lighting.

Good cause shall have the same meaning as set forth in the Colorado Marijuana Code.

Licensed premises means the premises specified in an application for a license under this article, owned or in the possession of the licensee, and within which the licensee is authorized to operate a medical marijuana business in accordance with the provisions of this article and the Colorado Marijuana Code.

Licensee means a person as defined and licensed pursuant to this article and the Colorado Marijuana Code.

Local licensing authority shall mean the Glenwood Springs City Clerk, and any hearing officers appointed to assist the City Clerk, to approve or disapprove the issuance of licenses pursuant to this article, and to administer other provisions set forth herein.

Medical marijuana means marijuana grown and sold, for medical use pursuant to the provisions of this article, the Medical Marijuana Amendment and the Colorado Marijuana Code.

Medical Marijuana Amendment shall mean Article XVIII, Section 14 of the Colorado Constitution.

Medical marijuana business shall have the same meaning as set forth in Article 070.070 of the City Code.

Medical marijuana cultivation facility shall have the same meaning as set forth in the Colorado Marijuana Code. See C.R.S. § 44-10-103(37), as amended.

Medical marijuana product shall have the same meaning as set forth in the Colorado Marijuana Code. See C.R.S. § 44-10-103(38), as amended.

Medical marijuana products manufacturer shall have the same meaning as set forth in the Colorado Marijuana Code. See C.R.S. § 44-10-103(39), as amended.

Medical marijuana store shall have the same meaning as set forth in the Colorado Marijuana Code. See C.R.S. § 44-10-103(40), as amended.

Medical use shall have the same meaning as is set forth in the Medical Marijuana Amendment, or as may be more fully defined in any applicable state law or regulation.

Patient shall have the same meaning as is set forth in the Medical Marijuana Amendment, or as may be more fully defined in any applicable state law or regulation.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

Primary caregiver shall have the same meaning as is set forth in the Medical Marijuana Amendment, or as may be more fully defined in any applicable state law or regulation.

Retail marijuana means marijuana grown and sold pursuant to the provisions of the Retail Marijuana Amendment and the Colorado Marijuana Code.

Retail marijuana business shall have the same meaning as set forth in Article 050.090 of the City Code. (15-11; 22-13; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015; Ord. No. 19-2018 , § 4, 8-2-2018; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.030 License required.

It shall be unlawful for any person to operate a medical marijuana business without first having obtained a license to operate pursuant to the provisions of this article and having paid the fee therefor. The licensing requirement applies to all medical marijuana businesses that exist on the effective date of the ordinance adopting this provision and any medical marijuana businesses established after such effective date. An application for a business that exists on the effective date of the adopting ordinance shall be filed with the City on or before a date set by resolution of the City Council.

- (a) A medical marijuana business holding a valid City business license that commenced operation prior to the effective date of the ordinance adopting this article, may continue to operate pending final action on an application for a license pursuant to this article, when the medical marijuana business: Possesses a valid sales tax license from the City; and possesses a valid medical marijuana business license under the Colorado Marijuana Code from the State of Colorado; and is located in a zone district where the business qualifies as a permitted use or is a preexisting non-conforming use.
- (b) Any medical marijuana business commencing operation after the effective date of the ordinance adopting this article shall comply with the licensing requirements of this article, the Colorado Marijuana Code, and any other applicable state or local laws and regulations.
- (c) Pursuant to the provisions of the Colorado Marijuana Code, medical marijuana businesses shall be licensed by the City in at least one (1) of the following categories:

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- (1) *Medical marijuana store.* Such stores shall meet all criteria and requirements of the Colorado Marijuana Code, as well as all other regulatory requirements applicable to medical marijuana stores set forth within this article and any other applicable state or local laws and regulations.
 - (2) *Medical marijuana products manufacturer.* Such manufacturers shall meet all criteria and requirements of the Colorado Marijuana Code, as well as all other regulatory requirements applicable to medical marijuana products manufacturing set forth within this article and any other applicable state or local laws and regulations.
 - (3) *Medical marijuana cultivation facility.* Such operations shall meet all criteria and requirements of the Colorado Marijuana Code, as well as all other regulatory requirements applicable to medical marijuana cultivation facilities set forth within this article and any other applicable state or local laws and regulations.
- (d) The licensing requirements set forth in this article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including, but not by way of limitation, a retail sales tax license, retail food establishment license, or development, zoning or building permit.
 - (e) No license for a medical marijuana store, medical marijuana products manufacturer or medical marijuana cultivation facility shall be issued by the City until a license for such use, at the location designated in the application, has been submitted or issued and the state license application fee has been received, by the Department of Revenue of the State of Colorado.
 - (f) The issuance of a license pursuant to this article does not create a defense, exception or provide immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana.
 - (g) A separate license shall be required for each location from which a medical marijuana business is operated.
 - (h) All medical marijuana business licenses issued by the City shall be valid for a period of one (1) year from the date such license is issued. Renewal applications shall be filed at least forty-five (45) days prior to the expiration of the existing license.
 - (i) Licensees shall report each transfer or change of ownership interest, change in business manager or change in financial interest on forms as required by the Local Licensing Authority. An application for such change shall be submitted at least thirty (30) days prior to any such change, together with any required fees, to provide necessary time for the background check and processing of the application.
 - (j) If the state prohibits the sale, cultivation or other distribution of marijuana through medical marijuana businesses in the Colorado Marijuana Code, any license issued by the City pursuant to this article shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensees.

(15-11; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.040 Application.

- (a) An application for a medical marijuana business license shall be made on the forms, as applicable, provided by the State of Colorado and any additional forms required by the Local Licensing Authority for such purposes. The application shall be used to demonstrate compliance with the provisions of this article, the City Code, Colorado Marijuana Code, Medical Marijuana Amendment and any other applicable law, rule or regulation. In addition to general information required, the application shall include the following information:

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- (1) An operating plan for the proposed medical marijuana business which includes a description of the products and services to be provided by the business, including whether the business proposes to engage in the production of retail sale of food or other products for human ingestion, and whether any products or services will be provided at a location different than the address on the license application.
 - (2) A dimensioned floor plan of the licensed premises, clearly labeled, and indicating the principal uses of the floor area, including but not limited to: areas open to non-patients; areas open to employees only; private consulting areas; storage areas; retail sales areas and areas where medical marijuana will be distributed; production areas; and areas where caregiver services, other than the distribution or sale of marijuana, will occur.
 - (3) A security and lighting plan indicating how the applicant will comply with the requirements of the laws and regulations of the state and the City Code.
 - (4) An area map, drawn to scale, indicating, within a radius of one thousand (1,000) feet from the boundaries of the property upon which the medical marijuana business is located, the proximity of the property to any kindergarten through 12th grade public or private school; any park designated in Section 090.030.010(b) but excluding subsection (15); any mental health facility or drug treatment facility; and the proximity of the property to any other medical marijuana or retail marijuana business or marijuana cultivation facility.
 - (5) Fingerprints, personal histories, and a statement certifying Colorado residency for all owners, officers, business managers, parties having a financial interest or those otherwise associated with the proposed medical marijuana business. All such individuals shall be subject to a criminal background check in conjunction with the license application.
 - (6) Any other information necessary to determine compliance with any provision of the City Code, the Colorado Marijuana Code or any other applicable law or regulation.
- (b) An inspection of the proposed medical marijuana business by the City, including building and fire inspectors and law enforcement officers, shall be required prior to the issuance of a license. Such inspection shall occur after the licensed premises are ready for operation, but prior to the opening of the business to any patients or to the public. The inspection shall verify that the premises are constructed and operated in accordance with the submitted application, and that such premises are in compliance with applicable City Codes.
 - (c) An application for a medical marijuana business license shall be accompanied by the application fee, criminal background check fee, and license fee, together with any other applicable fees. Such fees shall be established by resolution of the City Council.
 - (d) The Local Licensing Authority shall conduct an initial review of the medical marijuana business license application materials to determine the following:
 - (1) The proposed licensed premises location is allowed pursuant to the zoning, land use laws, and distance requirements in the City Code;
 - (2) The application is full and complete; and
 - (3) The application for a license concerns a particular location that is greater than five hundred (500) feet of a location for which, within two (2) years preceding the date of the application, the state or a Local Licensing Authority denied an application for the same class of license for the reason that the reasonable requirements of the neighborhood and the desires of the adult inhabitants were satisfied by the existing businesses; and
 - (4) The applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by virtue of ownership thereof.

Within forty-five (45) days of receipt of the medical marijuana business license application material, if the application does not meet one (1) or more of the review items in subsection (d) above, the Local Licensing Authority shall notify the Colorado Department of Revenue Marijuana Enforcement Division and the applicant that the application is denied without further review. If the application is not denied upon completion of this initial review, the Local Licensing Authority shall forward the application to City departments for review of compliance with the provisions of this article, the City Code, the CMC, and any other applicable law, rule or regulation. Nothing shall prevent the Local Licensing Authority from later denying the application based upon the criteria detailed in subsection (d) above, the application containing any false or misleading information, or the failure to meet any applicable laws, rules or regulations.

- (e) All applications for a medical marijuana business license shall require a public hearing before the Local Licensing Authority, inclusive of publication and posting requirements as set forth in the Colorado Marijuana Code and below.
 - (1) Upon receipt of an application, transfer of ownership or renewal application if there has been a violation of any of the provisions of this article, the Local Licensing Authority shall schedule a public hearing upon the application not less than thirty (30) days from the date of the application and shall post and publish the public notice thereof not less than ten (10) days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation. A public hearing for a renewal application shall not be required if there are no violations of this article.
 - (2) Notice given by posting shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one (1) inch in height and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.
 - (3) Notice given by publication shall contain the same information as subsection (e)(2) above.
 - (4) If the building in which the medical marijuana business is to be located is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this subsection (e) shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post notice on the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
 - (5) a. At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses.
 - b. As used in this subsection (5), "party in interest" means any of the following:
 - 1. The applicant;
 - 2. An adult resident within the Glenwood Springs city limits;
 - 3. The owner or manager of a business located within the Glenwood Springs city limits.
 - c. The Local Licensing Authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.
 - (6) Before entering any decision approving or denying the application, the Local Licensing Authority shall consider whether the application meets the requirements of the CMC and City Code, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable

requirements of the neighborhood for the class of license for which application has been made, the desires of the adult inhabitants and any other pertinent matters affecting the qualifications of the applicant for the type of business proposed.

- (7) Any decision of a Local Licensing Authority approving or denying an application shall be in writing stating the reasons therefor, within thirty (30) days after the date of the public hearing, and a copy of such decision shall be hand delivered, sent by electronic transmission or sent by first-class mail to the applicant at the address shown in the application.

(15-11; 22-13; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.050 Persons prohibited as licensees.

The criteria for determination of those persons who are not eligible to receive a medical marijuana business license shall be as provided in the Colorado Marijuana Code.

(15-11; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.060 Location of licensed business.

Medical marijuana businesses shall be located in areas of the City only as allowed in the City Code. No medical marijuana business shall be located:

- (1) Within one thousand (1,000) feet of any existing public or private school facility where classes are held for children aged kindergarten through the 12th grade; any park designated in Section 090.030.010(b) excluding subsection (15); mental health facility; or drug treatment facility. The distance shall be computed by a straight line measurement from the nearest property line of the school property, park, mental health facility, or drug treatment facility to the nearest property line of the site housing the medical marijuana business; or
- (2) Within one thousand (1,000) feet of another medical marijuana business, retail marijuana business, or marijuana cultivation facility. A medical marijuana business may locate on the same licensed premises as a retail marijuana business or marijuana cultivation facility of the same class and same ownership, only if the licensed premises meets the distance requirements from other medical marijuana and retail marijuana businesses and marijuana cultivation facilities. This distance shall be computed by a straight line measurement between property lines of the sites housing the two (2) facilities.
- (3) In any zone district not specifically allowed by the City Code.

(15-11; 22-13; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.070 Persons allowed on premises.

A licensee shall only allow persons authorized under the Colorado Marijuana Code and City Code on the licensed premises, including the following:

- (1) A person who is actively engaged in the maintenance, repair or improvement of the licensed premises, or
- (2) Law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties.
- (3) If operated on the same licensed premises with a retail marijuana business as authorized in this article and Article 050.090, no person under twenty-one (21) years of age is allowed on the licensed premises.

050.080.080 Requirements related to operation of medical marijuana business.

- (a) Medical marijuana businesses shall meet all operational criteria for the procurement, dispensing, labeling, sanitation, security, and any other criteria as required by the state pursuant to the Colorado Marijuana Code.
- (b) In addition, all medical marijuana businesses shall comply with the following local restrictions:
 - (1) All medical marijuana businesses shall be required to obtain a City business license and shall collect and remit all applicable state, county, city, and special district sales taxes in a timely manner.
 - (2) Medical marijuana businesses shall limit their hours of operation to between 8:00 a.m. and 7:00 p.m. Monday through Sunday or as otherwise limited by state law.
 - (3) Medical marijuana businesses shall apply for a sign permit through the Community Development Department. All exterior signage associated with a medical marijuana business will meet the standards established in the Colorado Marijuana Code, the Code of Colorado Regulations, and in the City Code. In addition, no sign associated with a medical marijuana business shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana or a graphic/image of any portion of a marijuana plant, or paraphernalia associated with medicinal marijuana use unless immediately preceded by the word "medical" or the message of such sign includes the words "for medical use" or "for medicinal purposes" in letters that are no smaller than the largest letter on the sign.
 - (4) A lighting plan shall comply with the requirements of the City Code.
 - (5) The smoking of marijuana in public is prohibited by state law.
 - (6) Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana facility shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
 - (7) No licensed premises shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. Such licensee or business manager shall be responsible for all activities that occur within the licensed premises.
 - (8) There shall be posted in a conspicuous location in each medical marijuana business legible signs containing the following:
 - a. A warning that the diversion of marijuana for non-medical purposes is a violation of state law;
 - b. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;
 - c. A warning that loitering in or around the medical marijuana business is prohibited by state law;
 - d. A warning that possession and distribution of marijuana is a violation of federal law;
 - e. A warning that smoking of marijuana within a medical marijuana business or within fifteen (15) feet of such a business is unlawful;
 - f. A warning that the smoking or consumption of marijuana in public is prohibited by state law;
 - g. The name and contact information for the owner or owners and any business manager of the medical marijuana business;

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- h. The medical marijuana business license; and
 - i. All sales tax licenses.
 - j. If operated on the same licensed premises with a retail marijuana business as authorized in this article and Article 050.090, no person under twenty-one (21) years of age is allowed on the licensed premises.

(15-11, 22-13; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.090 Inspection of Books, Records, Premises and Inventory.

- (a) Any medical marijuana business licensed by the City pursuant to this article may be required to demonstrate, upon demand by the City Manager or his/her duly authorized representative(s), or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state law or regulation. Each licensee of a medical marijuana business shall keep and maintain a complete set of books and records necessary to show fully the business transactions of such licensee, in full compliance with the laws and regulations of the state. All such records shall be open at all times during business hours for inspection and examination by the City Manager or his/her duly authorized representative(s), or by law enforcement officers. The City may require the licensee to furnish such information as it considers necessary for the proper administration of this article.
- (b) By accepting the medical marijuana business license, the licensee is providing consent to disclose the information required by this article, including information about the number of patients and caregivers. Any records that the licensee considers eligible for submission as confidential information may be submitted in a manner consistent with the Colorado Open Records Act, C.R.S. § 24-72-201 et seq. or other applicable law.
- (c) The City may require an audit to be made of such books of account and records as it may deem necessary pursuant to Title 040 of the City Code.
- (d) Acceptance of a medical marijuana business license from the City constitutes consent by the licensee, owners, managers, and employees of such business to permit the City Manager, or his/her authorized representative, or law enforcement officers to conduct routine inspections during business hours and other times of apparent activity, of any licensed medical marijuana business premises to assure compliance with this article, the City Code, the Colorado Marijuana Code or any other applicable law, rule or regulation.

(15-11; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.100 Disciplinary Actions.

The grounds for suspension, revocation or other disciplinary actions of a medical marijuana business license and the procedures for such suspension or revocation or other disciplinary action shall be as provided in the Colorado Marijuana Code and any and all applicable rules and regulations adopted pursuant thereto. In addition, a violation of any of the provisions of this article shall be grounds for suspension, revocation or other disciplinary action of a medical marijuana business license. In addition to suspension, revocation or other disciplinary actions, the Local Licensing Authority is hereby authorized to impose civil penalties or license violations to the same extent and according to the same standards as is utilized by the Colorado Department of Revenue Marijuana Enforcement Division in imposing fines for state license violations under the CMC and any and all applicable rules and regulations adopted pursuant thereto.

(15-11; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015; Ord. No. 27-2020 , § 2(Exh. A), 11-19-2020)

050.080.110 Appeal of Local Licensing Authority Decision.

- (a) Any initial decision of the Local Licensing Authority may be appealed by a party in interest to the City Council by filing written exceptions within ten (10) calendar days of the initial decision. The written exceptions shall include a statement giving the basis and grounds for the exceptions. Any party in interest who fails to properly file written exceptions within the time provided shall be deemed to have waived the right to appeal.
- (b) At the next regularly scheduled meeting, the City Council shall have the authority to sustain, modify or overturn the initial decision of the Local Licensing Authority. In any event, the City Council shall direct the Local Licensing Authority to take a particular action. The Local Licensing Authority shall conform a final decision to the written direction of the City Council within ten (10) calendar days from the date of the written directive.
- (c) The City Council may modify deadlines and procedures related to the filing of exceptions to the initial decision upon motion by a party in interest for good cause shown.

(15-11; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015)

050.080.120 Judicial Review.

A party in interest applying to the District Court for review of a final decision of the Local Licensing Authority shall apply for review within thirty (30) days of the initial decision of the Local Licensing Authority. The thirty-day period shall be inclusive of the appeal process to City Council outlined in Section 050.080.110.

(15-11; Ord. No. 17-2015 , § 2(Exh. A), 8-20-2015)