OFFICE OF THE CITY CLERK

MEDICAL MARIJUANA RULES AND REGULATIONS
FOR THE CITY OF COLORADO SPRINGS

REVISED 5/19/2012
EFFECTIVE 7/1/2012

Attached are the current Medical Marijuana Rules and Regulations for the City of Colorado Springs. The following sections have been modified:

Modified Rule 1.3.00(E):

E. At hearings on appeal of denial of a license APPLICATION, the burden ~~of proof~~ shall be on the appellant to ~~prove~~ ESTABLISH, ~~by a preponderance of the evidence~~, that the Deputy Licensing Officer exceeded its jurisdiction or abused its discretion based on evidence in the record before the Deputy Licensing officer. ~~At suspension or revocation, the City shall have the burden to establish that a violation occurred by a preponderance of the evidence, as provided in Rule 3.1.02.~~ THE ISSUES DISCUSSED AT THE HEARING WILL BE LIMITED TO THE REASONS FOR DENIAL CONTAINED IN THE CITY'S DENIAL NOTICE. EVIDENCE SUPPLEMENTING THE RECORD BEFORE THE DEPUTY LICENSING OFFICER SHALL NOT BE PRESENTED AT THE HEARING UNLESS THE APPLICANT, THE CITY, AND THE HEARING OFFICER ALL STIPULATE THAT IT SHOULD BE SUBMITTED. IF THE PARTIES DO STIPULATE TO ADMISSION OF EVIDENCE, THEY WILL BE REQUIRED TO EXCHANGE A LIST OF WITNESSES WITH A CONCISE STATEMENT OF ANTICIPATED TESTIMONY AS WELL AS EXHIBITS AT LEAST THREE (3) BUSINESS DAYS PRIOR TO THE HEARING. BRIEFS CONTAINING LEGAL ARGUMENT MAY BE SUBMITTED AT THE HEARING OFFICER'S DISCRETION. IF BRIEFING IS ORDERED, THE HEARING OFFICER WILL PROVIDE THE PARTIES WITH A BRIEFING SCHEDULE AND PAGE LIMITS. AT THE DEPUTY LICENSING OFFICER'S REQUEST, THE CITY MAY BE REPRESENTED BY A PROSECUTING ATTORNEY.

Added Rule 1.3.00(F):

F. AT SUSPENSION OR REVOCATION, THE CITY SHALL HAVE THE BURDEN TO ESTABLISH THAT A VIOLATION OCCURRED BY A PREPONDERANCE OF THE EVIDENCE, AS PROVIDED IN RULE 3.1.02

Modified Rule 1.3.00(H):

~~H~~. I. Any applicant, licensee, or person testifying before the Hearing Officer may offer exhibits or demonstrative evidence to the Licensing Authority for its consideration. The Hearing Officer shall have the discretion to accept or reject the offer and to weigh the exhibit or demonstrative evidence as it deems appropriate. ~~All exhibits in support of or opposition to an application for a license shall be submitted to the City Clerk by twelve o'clock noon, three (3) days prior to the hearing date~~.

Modified Rule 1.3.00(I):

~~I.~~ J. The Hearing Officer may establish reasonable time limits for presentations, which shall apply to both ~~the proponents and opponents of an item~~ PARTIES. ~~The Hearing Officer may request representatives to speak for an entire group or portions of a group, but shall not require such representation against the wishes of the group involved.~~ Whenever necessary, the Hearing Officer shall direct that remarks be germane to the item. Further, the Hearing Officer has the right to limit the presentation of evidence tending to be repetitious, irrelevant, speculative or conjectural.

Modified Rule 1.3.01:

The decision of the Hearing Officer shall constitute final agency action of the Local Licensing Authority for all purposes under the Colorado Revised Statutes, the rules and regulations of the state licensing authority, the Code of the City of Colorado Springs and these rules and regulations. Any appeal of the decision of the Hearing Officer shall be to the district courts of Colorado in accord with the Colorado Rules of Civil Procedure as now existing or later amended. There shall be no stay of execution of the ~~Licensing~~ HEARING Officer's decision pending decision by the District Court, except by court order. Failure to appeal the decision of the Hearing Officer shall be deemed to be a waiver of the right of appeal.

Modified Rule 2.1.01(B):

B. The Local Licensing Authority application forms, as provided by the City, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete application forms shall be rejected. APPLICATIONS REQUIRING ADDITIONAL DOCUMENTATION WILL HAVE A TEN (10) CALENDAR DAY PERIOD FROM DATE OF NOTICE FOR REMEDY, OR THE APPLICATION MAY BE DEEMED WITHDRAWN.

Modified Rule 2.1.08(A):

A. Before the location of a license is changed, the licensee shall submit an application on forms provided by the State Licensing Authority in ~~triplicate~~ DUPLICATE to the ~~City Clerk~~ LOCAL LICENSING AUTHORITY for the change of location, accompanied by the required application fee(s).

Modified Rule 2.1.08(B):

B. All applications for a change in location shall be filed with the ~~City Clerk~~ LOCAL LICENSING AUTHORITY and shall be subject to Part 2 of these Rules of Procedure, except that the character of the applicant shall not be considered.

Deleted Rule 2.1.08(C):

~~C. The Authority shall not authorize a change of location before thirty (30) days from the date the application has been filed.~~

Modified Rule 2.1.09(A):

A. All applications for renewal of a Medical Marijuana Business License shall be on forms provided by the State Licensing Authority, and must be submitted in duplicate to the Local Licensing Authority, no later than forty-five (45) days prior to the license expiration date, together with the required license and renewal application fees, in the form of a CERTIFIED check or money order.

Modified Rule 2.1.09(D):

D. Upon receiving the properly completed renewal application, the ~~City Clerk~~ LOCAL LICENSING AUTHORITY shall assemble the file of the applicant containing all of the various City departments' records regarding the applicant or the premises dating back for a period of at least one (1) year. Unless there is evidence to the contrary, whether contained in the applicant's file or otherwise, it will be presumed that the licensed premises comply with the provisions of the statutes and applicable regulations, and that the character of the applicant continues to be satisfactory. If these presumptions apply, the application shall then be approved by the Authority and forwarded to the State Department of Revenue, Medical Marijuana Enforcement Division.

Deleted Rule 2.1.09(E):

~~E. Whenever objections to the renewal of a license have been raised by an interested party, organized neighborhood group or the City prior to the renewal of the license, the Authority shall have the discretion to set the matter for a renewal hearing pursuant to Rule 3.1.08. Objections to renewal of a license must be for good cause. "Good Cause" is defined by C.R.S. § 12-43.3-104(1).~~

New Rule 2.1.10:

2.1.10 Notice of Pending Denial

If the Deputy Licensing Officer intends to deny any type of Medical Marijuana business application, the applicant shall be provided at least ten (10) calendar days written notice prior to the issuance of the actual denial letter. The applicant shall have the burden to supplement the Deputy Licensing Officer's file with materials relevant to the stated reason for pending denial. Failure of the applicant to supplement the file shall result in a waiver of additional evidence in the file.

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MEDICAL MARIJUANA RULES AND REGULATIONS FOR THE CITY OF COLORADO SPRINGS

PART 1 – General Rules

Section 1 – Applicability

Rule 1.1.00 Applicability of Rules

In addition to any other rules or laws which may be applicable, these rules shall govern all Medical Marijuana business license applications, suspension or revocation proceedings, or license renewals of any kind whatsoever which have been filed with the City Clerk as the Local Licensing Authority ("Authority') for the City of Colorado Springs.

Section 2 – Authority and Jurisdiction

Rule 1.2.00 General

The Local Licensing Authority (or the "Authority") of the City of Colorado Springs for Medical Marijuana business licenses as authorized by Colorado Revised Statutes, the rules and regulations of the state licensing authority, the Code of the City of Colorado Springs and by these rules and regulations, shall possess all powers given to local licensing authorities by the provisions of state statutes, City Code and state and local rules and regulations.

Rule 1.2.01 City Clerk

The City Clerk shall be the Local Licensing Authority for the City of Colorado Springs, except as otherwise provided by ordinance or by these rules. The City Clerk shall function as the Licensing Officer and the Deputy City Clerk shall function as the Deputy Licensing Officer.

Rule 1.2.02 Jurisdiction of Authority

A. The Local Licensing Authority or its designee shall have jurisdiction over all Medical Marijuana business licensing matters related to licensed premises within the City of Colorado Springs.

B. The jurisdiction and authority of the Local Licensing Authority is delegated to the following designees:

1. License Enforcement Officer – The City Clerk's designee assigned to review and make recommendations to the Deputy Licensing Officer regarding Medical Marijuana business applications and renewals. The License Enforcement Officer shall be responsible for coordinating the issuance of show cause documents in the event of an alleged license violation. The License Enforcement Officer shall assist the Authority by receiving all applications,

conducting investigations, coordinating with other City departments and state agencies as required, and by scheduling public hearings.

2. Deputy Licensing Officer –The Deputy City Clerk or the City Clerk's designee responsible for reviewing, granting or denying Medical Marijuana business license applications. The Deputy Licensing Officer shall also sign show cause documents on a finding of probable cause that there has been a business license violation.

3. Hearing Officer – An independent hearing officer appointed by the City Clerk and acting on behalf of the Local Licensing Authority who conducts hearings on appeals from the Deputy Licensing Officer's decisions, and on orders to show cause for alleged license violations.

Section 3 – Hearings

Rule 1.3.00 Conduct of Hearings

A The Local Licensing Authority shall conduct public hearings on appeals of the denial of a license and suspensions or revocations of a Medical Marijuana business license, including hearings to temporarily or summarily suspend a Medical Marijuana business license.

B. All hearings shall be open to the public. Any hearing may be adjourned and reconvened at a time and place determined by the Hearing Officer.

C. Public notice of all hearings shall be posted pursuant to the Colorado Springs City Charter § 3-60(d). Licensees issued an order to show cause shall be given at least ten (10) days prior notice of the time, place, and nature of the hearing. Notice shall be served personally or by mailing by first-class mail to the last address furnished to the Local Licensing Authority by the applicant or licensee to be notified. Appeals from the Deputy Licensing Officer's decision must be presented in writing to the City Clerk's Office within ten (10) of the decision. Failure to appeal the Deputy Licensing Officer's decision in accord with this section shall be deemed a waiver of the right to appeal pursuant to CRCP 106 by virtue of a failure to exhaust administrative remedies.

D. If an applicant, licensee, or the City requests postponement of a hearing, the Hearing Officer shall have the discretion to continue the hearing as it deems fit.

E. At hearings on appeal of denial of a license application, the burden shall be on the appellant to establish, that the Deputy Licensing Officer exceeded its jurisdiction or abused its discretion based on evidence in the record before the Deputy Licensing officer. The issues discussed at the hearing will be limited to the reasons for denial contained in the City's denial notice. Evidence supplementing the record before the Deputy Licensing Officer shall not be presented at the hearing unless the Applicant, the City, and the Hearing Officer all stipulate that it should be submitted. If the parties do stipulate to admission of evidence, they will be required to exchange a list of witnesses with a concise statement of anticipated testimony as well as exhibits at least three (3) business days prior to the hearing. Briefs containing legal argument may be submitted

at the Hearing Officer's discretion. If briefing is ordered, the Hearing Officer will provide the parties with a briefing schedule and page limits. At the Deputy Licensing Officer's request, the City may be represented by a prosecuting attorney.

F. At suspension or revocation, the City shall have the burden to establish that a violation occurred by a preponderance of the evidence, as provided in Rule 3.1.02

G. Evidence and requirements of proof shall conform, to the extent practicable, with those in civil non-jury cases in the district courts. Evidence not admissible under those rules may be admitted if the evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Incompetent and unduly repetitious evidence may be excluded. Documentary evidence may be received in the form of a copy, but, upon request, a party shall be given the opportunity to compare the copy with the original. The Hearing Officer may take notice of general, technical, or scientific facts within the Hearing Officer's knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to dispute the fact noticed.

H. All testimonial evidence, whether provided in person or by affidavit, must be sworn. The Hearing Officer shall have the power to issue subpoenas, to compel testimony or present documents, records or any other tangible evidence. Questions concerning the materiality, relevancy or competency of witnesses to testify on behalf of or in opposition to a licensee or applicant will be determined as questions arise.

I. Any applicant, licensee, or person testifying before the Hearing Officer may offer exhibits or demonstrative evidence to the Licensing Authority for its consideration. The Hearing Officer shall have the discretion to accept or reject the offer and to weigh the exhibit or demonstrative evidence as it deems appropriate.

J. The Hearing Officer may establish reasonable time limits for presentations, which shall apply to both parties. Whenever necessary, the Hearing Officer shall direct that remarks be germane to the item. Further, the Hearing Officer has the right to limit the presentation of evidence tending to be repetitious, irrelevant, speculative or conjectural.

K. Any person having business before the Hearing Officer shall provide a qualified interpreter if necessary to participate in the hearing subject to the following:

Every person acting as an interpreter shall be administered an oath or affirmation that the person will make a true translation; and

1. Every person acting as an interpreter shall be required to be qualified as an interpreter and accepted by the Hearing Officer. A person may be qualified by virtue of their knowledge, skill, experience, training, or education.
2. In determining whether an individual is qualified to act as an interpreter in any proceeding before the Hearing Officer, the Hearing Officer may consider, but is not limited to:

a. Whether the interpreter is a certified Court interpreter by the State of Colorado Office of the State Court Administrator or the Federal Courts;
b. Any special training or education received by the interpreter in providing interpretation and/or translation;
c. The interpreter's means of knowledge regarding the languages translated from and translated to;
d. Number of times that the interpreter has performed interpretation/translation services and the type of proceedings where these services were rendered; and
e. The relationship of the interpreter to the individual who will be using the interpreter's service to determine whether any bias, or other motive would preclude the interpreter's ability to provide a true, literal and complete bilateral translation of the entire proceeding.

L. If an appellant fails to appear at a scheduled appeal hearing, the application will be deemed abandoned and will be denied. If a licensee receives notice pursuant to Rule 3.1.00 and fails to appear at a scheduled disciplinary hearing pursuant to Part 3 – Disciplinary Proceedings: Rules Related to Suspension, Revocation and Non-Renewals, the hearing shall go forward in the licensee's absence.

Rule 1.3.01 Final Agency Action

The decision of the Hearing Officer shall constitute final agency action of the Local Licensing Authority for all purposes under the Colorado Revised Statutes, the rules and regulations of the state licensing authority, the Code of the City of Colorado Springs and these rules and regulations. Any appeal of the decision of the Hearing Officer shall be to the district courts of Colorado in accord with the Colorado Rules of Civil Procedure as now existing or later amended. There shall be no stay of execution of the Hearing Officer's decision pending decision by the District Court, except by court order. Failure to appeal the decision of the Hearing Officer shall be deemed to be a waiver of the right of appeal.

Section 4 – Inspections

Rule 1.4.00 Inspection of Books and Records

Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the Local Licensing Authority, its designees, or the Colorado Springs Police Department. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three (3) immediately preceding tax years. The Local Licensing Authority may require any licensee to furnish information it considers necessary for the proper administration of the state code or the Code of the City of Colorado Springs 2001, as amended. If the Local Licensing Authority's investigation is unable to determine the state of the business' financial operations, the Local Licensing

Authority may select and engage the services of an auditor who shall also have access to all books and records of the licensee. Engagement and payment of an auditor shall be accomplished in accord with the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations.

Rule 1.4.01 Inspection of Licensed Premise

The licensed premises, including any places of storage where Medical Marijuana is grown, stored, cultivated, sold, or dispensed, shall be open and made immediately available for inspection by the Local Licensing Authority and the Colorado Springs Police Department during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, the area shall be made available for inspection without delay, and, upon request by authorized representatives of the Local Licensing Authority, the licensee shall open the area for inspection.

PART 2 – Application and Proceedings (Non-Disciplinary)

Section 1 – Applications and Forms

Rule 2.1.00 Applications

A. All applications for a Medical Marijuana business license, including but not limited to new license applications, renewal applications, applications for change of location, applications for change of corporate structure, applications for transfer of ownership, applications for manager registration, or applications for change of trade name, as well as applications for expansion, alteration or modification of the premises, shall be filed with the Local Licensing Authority on approved forms, together with all fees and documents required by the City and State, with the exception of State Associate license material, which the applicant must forward directly to the State Licensing Authority.

B. A request for a change in the class of license from that presently held by a licensee shall be considered an application for a new license.

Rule 2.1.01 Forms and Fees

The following shall be filed:

A. State Medical Marijuana business license application forms, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete application forms shall be rejected.

B. The Local Licensing Authority application forms, as provided by the City, which shall be filled out and completed in all material details, with applicable documentation as required. Incomplete application forms shall be rejected. Applications requiring

additional documentation will have a ten (10) calendar day period from date of notice for remedy, or the application may be deemed withdrawn.

~~C.~~ Local application fees, payable by certified check or money order to the City of Colorado Springs, as established by separate City Council Resolution. Application fees will not be refunded upon withdrawal or denial of an application or license. The application fee is valid for all license types submitted concurrently for a single applicant. Subsequent applications for additional locations require an additional application fee.

D. Local license fees, payable by certified check or money order to the City of Colorado Springs, as established by separate City Council Resolution. License fees will be due within five (5) days of the Local Licensing Authority posting written notice at the premises that the license has been approved conditional on payment of the license fee. If the applicant fails to pay the license fee within five (5) days after notice is posted at the premises, the application will be deemed withdrawn. License fees may be refunded only if the application or subsequent licensing period had not been approved or effective on the date of request.

E. A State application fee payable to the Colorado Department of Revenue shall be filed in the form of a certified check or money order. The amount shall be provided by C.R.S. 12-43.3, Part 5, as amended.

F. A State license fee payable to the Colorado Department or Revenue shall be filed in the form of a certified check or money order. The amount shall be provided by C.R.S. 12-43.3, Part 5, as amended.

Rule 2.1.02 Application Requirements for Medical Marijuana Business License

A. Every application for a license to operate a Medical Marijuana business shall be legible, be filed in triplicate and shall include but not be limited to the following:

1. The full name and any other names under which each owner is or has been known, the address and telephone number, date of birth, and social security number of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant;

2. The full name and any other names under which the managing owner, registered agent or managing agent is or has been known, the residence address, contact telephone number, date of birth and social security number of the managing owner, registered agent and/or managing agent;

3. The name under which the applicant intends to do business, the address of the local principal place of business and any optional premises;

4. A description of the specific types of services to be rendered;

5. An Applicant Interview Form and one classifiable set of fingerprints for each owner and managing agent;

6. The residence address of each owner, registered agent and managing agent for the five (5) years prior to the date of the application;

7. Statement containing the date, place and disposition of any criminal history of any owner and registered agent and/or managing agent of the applicant;

8. A statement containing information relating to the denial, suspension or revocation of any business license held by any owner and registered agent and/or managing agent of the applicant, whether in this state or any other state;

9. A release statement signed by the applicant, each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant allowing the City to check and review all known criminal and financial records at any time;

10. A professionally drawn 8½" x 11" floor plan diagram, drawn to a specified, commonly used scale (e.g. 1" = 20', ¼" = 1') of the Medical Marijuana premises showing the uses and functions within the premises, including the dimensions of the rooms and their primary functional use, and a depiction of where any services other than the dispensing of Medical Marijuana are proposed to occur (such as offices, bathrooms, storage areas, waiting areas and hallways).; and

11. If the applicant is not the owner of the proposed location of the Medical Marijuana business, a notarized statement from the owner of the property authorizing the submission of the application pursuant to City Code;

12. A copy of the deed, lease, contract or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed reflecting the ownership and right to possess the property that is the subject of the Medical Marijuana business license;

13. A statement of the applicant's personal, financial and management associations and the interests of other persons in the Medical Marijuana business and a statement of the business backgrounds of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant with applicable documentation;

14. An acknowledgement and consent that a background investigation will be conducted;

15. Evidence of a City of Colorado Springs Sales Tax License, as applicable;

16. A listing of the number of employees, contractors, and managers;

17. Supporting documents that ensure that the Medical Marijuana business will operate in a manner consistent with State Law and City Code and any other documents required by the Local Licensing Authority.

18. Suitable additional evidence of citizenship, residence, and good character and reputation.

19. Five (5) years employment history of each owner, principal, officer, director, member, and registered agent and/or managing agent for the applicant.

B. An application for an original, renewal, or optional premises Medical Marijuana business license shall be accompanied by:

1. The fees established by the City;

2. If applicable, a trade name registration, if any, and a certificate of good standing from the Colorado Secretary of State;

3. Upon application for the initial license, a statement of the work history for the last five (5) years of each owner/principal/managing agent; and

4. A release statement signed by the applicant, owner(s), principal(s) and managing agent allowing the City to check annually for any pertinent criminal history.

C. Burden of Proof: The applicant shall have the burden to establish that the applicant has met all the requirements of the state laws and local ordinances governing the particular application by a preponderance of the evidence.

Rule 2.1.03 Application Review and Findings for Medical Marijuana Business License

The License Enforcement Officer shall gather evidence as required by State and local law and ordinance. The investigation shall consider the following matters:

A. Whether it satisfactorily appears that the applicant or licensee 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 ownership;

B. Whether the premises sought to be licensed is in compliance with the zoning, fire, building and other applicable laws of the City of Colorado Springs;

C. Whether the building containing the licensed premises is located more than four hundred feet (400') from any K-12 school, alcohol or drug treatment facility or residential child care facility.

D. Whether the applicant or licensee has submitted false applications, made willful misrepresentations and/or committed fraudulent acts;

E. Whether the applicant or licensee has a criminal history involving crimes of moral turpitude. By way of example, crimes of moral turpitude shall include, but not be limited to: murder, burglary, robbery, arson, kidnapping, sexual assault, illegal drug or narcotics convictions;

F. Whether the applicant or licensee has had previous Medical Marijuana business licenses denied, suspended or revoked as a result of violations of law;

G. Whether the applicant or licensee has been found to be delinquent in the payment of any state or local taxes, and whether record of the tax delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means;

H. Whether the applicant or licensee has committed violations of law resulting in suspension, revocation or denial of any other government granted business permit, clearance, or license. For purpose of this section, the suspension or revocation of a state-issued driver's license shall not be considered;

I. When making a determination as to the character, record or reputation of a licensee or applicant, the License Enforcement Officer shall consider evidence of rehabilitation. Evidence of rehabilitation may include, but not be limited to, evidence of no criminal history, education achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the last conviction.

Rule 2.1.04 Unlawful Financial Interest, Assistance, Owner-Manager

A. Each license must be held by the owner of the licensed Medical Marijuana business. “Owner” means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from the operation or sale of the establishment.

In determining who is the owner, elements considered, in addition to risk of loss and opportunity for profit, include: (1) possession; (2) who controls the license; (3) who guarantees the establishment’s debts or production levels; (4) who is beneficiary under the establishment’s insurance policies; and (5) who acknowledges liability for the business’ federal, state, or local taxes.

B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A license may not be held in the name of the manager.

C. A spouse of a licensee may hold a license in his or her own right if he or she is the owner of the separately licensed Medical Marijuana business, regardless of whether the spouses file separate or joint income tax returns.

D. A partnership interest, limited or general, a joint venture interest, ownership of a share or shares in a corporation or a limited liability company which operates a Medical Marijuana business, or having a secured interest in furniture, fixtures, equipment or inventory of a Medical Marijuana business constitutes ownership and a direct financial interest. Each individual having these types of ownership or direct financial interests must obtain and hold the appropriate license.

E. Any person who guarantees production levels, yields, quantities produced or any other obligations of the licensee or its operation shall be deemed to have a financial interest.

Rule 2.1.05 Transfer of Ownership and Changes in Licensed Entities

A. Corporations and Limited Liability Companies

1. If the applicant for any license is a corporation or limited liability company, it shall submit with the application the names, addresses, the names and addresses of any managers, a copy of its articles of incorporation or articles of organization, and evidence of its qualification to do business within this State. In addition, each applicant shall submit names, addresses and background forms for all persons owning any of the outstanding or issued capital stock, or of any person holding a membership interest of ten percent (10%) or greater.

2. Any transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Colorado Medical Marijuana Code shall be reported at least thirty (30) days prior to the transfer or change. With the report, the licensee shall submit names, addresses, and background forms for any new officer, director, or stockholder acquiring any outstanding capital stock.

3. Any transfer of membership interest or any change in managing members of any limited liability company holding a license shall be reported at least thirty (30) days prior to the transfer or change. With the report, the licensee shall submit names, addresses and background forms for any new manager, or member acquiring a membership interest.

B. Partnerships

1. If the applicant for any license is a general partnership, limited partnership, limited liability partnership or limited liability limited partnership, the applicant shall submit names, addresses and background forms for all of its partners and a copy of its partnership agreement;

2. Any transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported at least thirty (30)

days prior to the transfer of change. With the report, the licensee shall submit the names, addresses and background forms for any new partner, or any other partner acquiring a partnership interest.

C. Entity Conversions

1. Any licensee that qualifies for an entity conversion shall not be required to file a transfer of ownership application upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least thirty (30) days prior to the conversion. Evidence required shall include, but not be limited to, any conversion documents or agreements for conversion at least ten (10) days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, at least thirty (30) days prior to the date of the conversion, the licensee shall submit names, addresses and background forms or any new officers, directors, managers, general or managing partners, and for all persons having an ownership interest of ten percent (10%) or greater.

All reports required by this rule shall be on forms supplied by the Local Licensing Authority or the State of Colorado.

D. No application for a transfer of ownership may be received or acted upon by either the State or Local Licensing Authority if the transferring licensee has surrendered its license or had it canceled or revoked by either Authority prior to submission of the transfer application. In cases where surrender, cancellation or revocation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to these Rules and Regulations.

E. Changes in registered managers shall be reported to the Local Licensing Authority in accord with the State Medical Marijuana Code and State Rules and Regulations.

Rule 2.1.06 Changing, Altering or Modifying Licensed Premises

A. The licensee shall make no physical change, alteration or modification of the premises which materially or substantially alters the premises or the usage of the premises from the plans and specifications submitted at the time of obtaining the license, or as defined by these Rules, without prior written consent from the Local Licensing Authority as set forth in this Rule. For purposes of this Rule, physical changes, alterations or modifications of the premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises, whether the increase or decrease be to restricted or unrestricted areas.

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other means of public ingress and/or egress that permits access to

the licensed premises from or between public streets or thoroughfares, adjacent or abutting buildings, rooms or premises.

3. Any material change in the interior of the licensed premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The foregoing shall not apply to painting and redecorating the licensed premises; the installation or replacement of fixtures or equipment or plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.

In making its decision with respect to any proposed change, alteration, expansion or modification the Local Licensing Authority must consider whether the licensed premises, as changed, altered, expanded or modified, will meet all of the pertinent requirements of applicable State and City law.

Rule 2.1.07 Change of Trade Name

No licensee shall change the name or trade name of the licensed business without submitting completed and approved form(s) with required fee(s) to the Local Licensing Authority at least ten (10) days prior to the change.

Rule 2.1.08 Change of Location

A. Before the location of a license is changed, the licensee shall submit an application on forms provided by the State Licensing Authority in duplicate to the Local Licensing Authority for the change of location, accompanied by the required application fee(s).

B. All applications for a change in location shall be filed with the Local Licensing Authority and shall be subject to Part 2 of these Rules of Procedure, except that the character of the applicant shall not be considered.

Rule 2.1.09 License Renewal

A. All applications for renewal of a Medical Marijuana Business License shall be on forms provided by the State Licensing Authority, and must be submitted in duplicate to the Local Licensing Authority, no later than forty-five (45) days prior to the license expiration date, together with the required license and renewal application fees, in the form of a certified check or money order.

B. If an application for renewal is filed less than forty-five (45) days prior to the license expiration date, and no other objections have been filed with the Local Licensing Authority as set forth in Subsection E of this Section, then the Authority shall process the application as provided in Subsection D of this Section. If objections are filed, then the provisions of Rule 3.1.07 shall apply. If, due to the lateness of the filing of the renewal application form, the license cannot be renewed by the City and by the State prior to its expiration date, then the licensee shall not be allowed to sell, distribute or cultivate Medical Marijuana, or manufacture Medical Marijuana-infused products until a new license application has been approved and issued to the licensee, unless the Authority, for good cause shown, expressly waives this provision. No application for renewal of a Medical Marijuana business license shall be accepted after the date of expiration except as provided in Subsection C, below.

C. Notwithstanding the provisions of Subsection B of this Section, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee payable to the City of Colorado Springs. A licensee who files a late renewal application and pays the required fee may continue to operate until the Local Licensing Authority has taken final action to approve or deny the licensee's late renewal application. No late renewal application shall be accepted more than ninety (90) days after the expiration of a licensee's annual license. Any licensee whose permanent annual license has been expired for more than ninety (90) days must apply for a new license pursuant to C.R.S. 12-43.3-Part 3, and shall not cultivate, distribute or sell any Medical Marijuana, or manufacture any Medical Marijuana-infused products until all required licenses have been obtained.

D. Upon receiving the properly completed renewal application, the Local Licensing Authority shall assemble the file of the applicant containing all of the various City departments' records regarding the applicant or the premises dating back for a period of at least one (1) year. Unless there is evidence to the contrary, whether contained in the applicant's file or otherwise, it will be presumed that the licensed premises comply with the provisions of the statutes and applicable regulations, and that the character of the applicant continues to be satisfactory. If these presumptions apply, the application shall then be approved by the Authority and forwarded to the State Department of Revenue, Medical Marijuana Enforcement Division.

E. In the event that an application for a transfer of ownership of a license is pending at the same time that an application for a renewal is pending, both applications shall be processed simultaneously. If the renewal of the license occurs prior to the transfer of the license, then the licensee may continue to operate pending final determination of the application for transfer of ownership. If the transfer of ownership occurs prior to the renewal of the license in the name of the original licensee, then the date of approval of the transfer of ownership shall be the renewal date for the transferee's license and the original licensee's renewal application shall be moot.

Rule 2.1.10 Notice of Pending Denial

If the Deputy Licensing Officer intends to deny any type of Medical Marijuana business application, the applicant shall be provided at least ten (10) calendar days written notice prior to the issuance of the actual denial letter. The applicant shall have the burden to supplement the Deputy Licensing Officer's file with materials relevant to the stated reason for pending denial. Failure of the applicant to supplement the file shall result in a waiver of additional evidence in the file.

PART 3 – Disciplinary Proceedings: Rules Related to Suspension, Revocation and Non-Renewals

Section 1 – General Provisions Applicable to All Disciplinary Proceedings

Rule 3.1.00 Notice

A. Upon commencement of suspension and revocation proceedings, the Local Licensing Authority shall set a time and place for the hearing of the matter.

B. The Local Licensing Authority shall give the licensee no less than ten (10) days advance notice of the time, place and nature of the hearing, the authority and jurisdiction under which it is to be held, the violations asserted and/or the good cause generally asserted as the grounds. Notice shall be served personally or by mailing by certified mail to the last address furnished to the City by the licensee, except that the time for Notice of Hearings on license renewal applications shall be governed by Rule 3.1.07. Notwithstanding the above notice requirements, the Hearing Officer may summarily suspend the license without notice pursuant to State law and these Rules.

C. In the discretion of the City, suspension and revocation proceedings may include violations occurring during the immediate preceding licensing period as well as the current licensing period.

D. For purposes of disciplinary proceedings, the parties shall be the Licensee and the City.

Rule 3.1.01 Discovery and Exhibits

A. For purposes of hearings on license suspension or revocation, the parties shall, upon request of the other party, exchange copies of all exhibits intended for introduction at the hearing, exchange all pertinent written reports of witnesses whose testimony is anticipated at hearing, and respond to all other reasonable discovery requests, within a reasonable period of time. In the event a party intends to introduce evidence which is not subject to photocopying or electronic duplication, a description of

the evidence will be provided to the other party and the evidence will be made available for inspection under supervision by appointment.

B. The Hearing Officer shall have the discretion to make any orders necessary to address alleged non-compliance with this Rule. Orders shall include, but not be limited to, ordering the non-complying party to permit the discovery of the material and information not previously disclosed, continuing the hearing, or any other orders that the Hearing Officer deems just under the circumstances. Upon a finding that this Rule has been violated by a party, the Hearing Officer should impose the least severe sanction that will ensure that there is full compliance with this Rule.

Rule 3.1.02 Hearings

A. The Hearing Officer shall conduct hearings on revocation or suspension.

B. The Hearing Officer shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances.

C. Representation. The City may be represented by a prosecuting attorney from the Office of the City Attorney. The licensee may be represented by counsel or may proceed pro se. The licensee will be given an opportunity to be heard, present evidence, cross-examine witnesses and offer evidence in mitigation of any alleged violations. At the Hearing Officer's discretion, a municipal attorney from the Office of the City Attorney may advise the Hearing Officer regarding any procedural questions during a hearing. Under no circumstances will the same municipal attorney act as a prosecuting attorney during any hearing.

D. All hearings before the Hearing Officer shall be electronically recorded. Summary suspension hearings shall be similarly recorded.

E. In all suspension or revocation proceedings before the Hearing Officer, the City shall have the burden to establish that a violation occurred by a preponderance of the evidence.

Rule 3.1.03 Decision

A. The Hearing Officer shall make a written decision within fifteen (15) days after the conclusion of the hearing. The Hearing Officer shall consider only the testimony and evidence presented at the hearing in making his or her decision. A copy of this decision shall be mailed to or served upon the licensee.

B. In the event of revocation, suspension or surrender of the license, no portion of the license fee or any levied occupation tax shall be refunded.

Rule 3.1.04 Penalty

A. Upon a finding by the Hearing Officer that the licensee, or any of the licensee's agents or employees, committed a violation, the Hearing Officer shall have the power to

suspend the license for a period not to exceed six (6) months (to include both time the license is actually suspended and suspension time held in abeyance), or to revoke the license. Any summary suspension ordered pursuant to Rule 3.1.06 shall be further limited in duration by that Rule.

B. In determining an appropriate penalty, the Hearing Officer may consider factors including, but not limited to, any recommended penalties for the violation contained in regulations promulgated by the State Licensing Authority pursuant to State law, any history of violations committed by the licensee or by any of its agents or employees, and any aggravating and mitigating factors.

Rule 3.1.05 Summary Suspensions

A. The Hearing Officer may summarily suspend a license without notice pursuant to state law:

1. Where the Hearing Officer has reasonable grounds to believe and finds that a licensee is guilty of a deliberate and willful violation of any applicable law, rule or regulation; or

2. Where the Hearing Officer has reasonable grounds to believe that the protection of public health, safety or welfare imperatively requires emergency action.

B. Upon the summary suspension of a license, the Hearing Officer shall render an order incorporating these findings.

C. The summary suspension of a license without notice pending any prosecution, investigation, or public hearing shall be for a period not to exceed fifteen (15) days, during which time the City shall institute suspension or revocation proceedings.

D. In the event the Hearing Officer grants a summary suspension and the licensee requests that the hearing date is continued beyond fifteen(15) days, the Hearing Officer shall have discretion to continue the hearing date so long as the licensee stipulates to the summary suspension continuing through the next scheduled hearing date.

E. In the event of the summary suspension of a license, no portion of the license fee or occupation tax shall be refunded.

Rule 3.1.06 Destruction of Unauthorized Marijuana or Marijuana-Infused Products and Related Materials

A. The Colorado Springs Police Department, and the Local Licensing Authority, shall not be required to cultivate or care for any marijuana or marijuana-infused product belonging to or seized from a licensee.

B. If the Hearing Officer issues a final agency order imposing a disciplinary action against a licensee pursuant to § 2.3.108 of the Code of the City of Colorado Springs 2001, as amended, then, in addition to any other remedies, the Hearing Officer's order may specify that some or all of the licensee's marijuana or marijuana-infused product is not Medical Marijuana or a Medical Marijuana-infused Product and is an illegal controlled substance. The order may further specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as Medical Marijuana or a Medical Marijuana-infused Product pursuant to the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations. The final agency order may direct the destruction of any marijuana and marijuana-infused products pursuant to the State Medical Marijuana Code and State Medical Marijuana Rules and Regulations. Destruction of any illegal controlled substances will be under supervision of the Colorado Springs Police Department and the Local Licensing Authority.

C. Following the issuance of a final agency action ordering destruction authorized by subsection (B) of this Rule, a licensee shall have fifteen (15) days to file a petition for stay of agency action with the District Court. The Colorado Springs Police Department and the Local Licensing Authority shall not carry out the destruction ordered by the Hearing Officer until fifteen (15) days have passed from the date of the Hearing Officer's Order without the filing of a petition for stay of agency action, or until the District Court has issued an order denying a stay of agency action.

D. Following the issuance of a final agency action ordering destruction authorized by subsection (B) of this rule, the Local Licensing Authority shall immediately provide written notice to the 4th Judicial District Attorney's Office that an order for destruction has entered and that the order will be executed 15 days after entry of the order unless the 4th Judicial District Attorney's Office notifies the Local Licensing Authority that the marijuana or marijuana-infused product(s) constitute(s) evidence in a criminal proceeding, in which case the 4th Judicial District Attorney's Office will be granted access for that purpose.

E. Whenever a decision of the Hearing Officer suspending a license becomes final, and the licensee petitions the Hearing Officer for an order of clarification permitting the licensee to maintain its inventory, the Hearing Officer may, if in compliance with State Medical Marijuana Rules and Regulations, grant the petition and order that the proposed suspension shall not prohibit the licensee from maintaining its existing inventory.

Rule 3.1.07 Renewal Hearings

A. Whenever the City files an objection to the renewal of a license based on "Good Cause" as that term is used in C.R.S. § 12-43.3-104(1) prior to the renewal of the license, the Authority shall have the discretion to set the matter for a renewal hearing. A hearing on the renewal application shall be held not less than 10 days from the date the licensee receives the City's objection by personal service or certified mail as provided in Rule 3.1.00. A notice of hearing shall be conspicuously posted on the licensed premises for a period of no less than ten (10) days prior to the renewal hearing. The

renewal hearing shall be conducted by the Hearing Officer in accord with this Part 3. The licensee shall be permitted to sell and possess Medical Marijuana pending the renewal hearing.

B. In the event that an application for change of corporate structure is pending at the same time that a renewal hearing is pending, then the change of corporate structure, as applicable, must be determined prior to the license being renewed. If the application for renewal is otherwise in compliance with state statutes and Rule 2.1.09, and the application for change of corporate structure cannot be heard prior to the expiration of the license, the license renewal hearing may be continued by the Hearing Officer after the expiration of the license pending determination of the change of corporate structure issues. Upon the completion of those determinations, the renewal application shall be acted upon by the Hearing Officer. If a renewal hearing is held after the expiration of the license, and the filing of the renewal application is timely, pursuant to the requirements of Rule 2.1.09, then the licensee may continue to operate pending final determination of the change of corporate structure issues prior to the renewal hearing being held.

C. In the event that an application for renewal is pending at the same time that a disciplinary hearing is pending, then the resolution of the disciplinary hearing must be determined prior to the license being renewed. If the application for renewal is otherwise in compliance with state statutes and Rule 2.1.09, and the disciplinary hearing cannot be held prior to the expiration of the license, the license renewal may be extended by the Hearing Officer after the expiration of the license pending determination of the disciplinary hearing. Upon the completion of those determinations, the renewal application shall be acted upon by the Hearing Officer.

Rule 3.1.08 Consequence of Inactivity

A. Where an approved license is for a premises which has not been constructed and placed in operation within one (1) year of approval of the application, in the discretion of the Authority, may be suspended, revoked, or denied upon application for renewal.

B. Where a licensed premise has been inactive for more than one (1) year, the premises may be deemed abandoned and the license, in the discretion of the Authority, may be revoked or denied subsequent renewal.