

§§ 15-129 to 15-299. Reserved.

**Article XV. Medical Marijuana
Businesses**

Division 1. License

Sec. 15-300. License required.

It is unlawful for any person to own or operate a medical marijuana business, as that term is defined in the Cortez Land Use Code, or Cortez City Code without first obtaining a license as provided in this article. The following two types of business

operations as defined in the Colorado Medical Marijuana Code C.R.S. 12-43.3-101 et seq. may be licensed hereunder: Medical marijuana centers and medical marijuana-infused products manufacturing.

(Ord. No. 1164, 3-13-12)

Sec. 15-301. Application; term fee.

Any person operating or proposing to operate a medical marijuana business shall first procure from the city clerk a medical marijuana business license, which the clerk shall issue in accordance with the following procedures:

(a) A person seeking to obtain a license pursuant to this article shall submit an application to the city clerk. The form of the application shall be provided by the city clerk.

(b) A license issued pursuant to this section does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the medical marijuana business, including, without limitation, any development approval required by the land use code; a sales tax license; and a building, mechanical, plumbing, or electrical permit.

(c) An application for a license under this article shall contain the following information:

(1) A completed state and local licensing authority application forms;

(2) A completed set of individual history form, including a set of the fingerprints for the applicant and for any person owning ten percent or more of the medical marijuana business.

(3) The street address of the proposed medical marijuana business;

(4) If the applicant is not the owner of the proposed location of the medical marijuana business, a notarized statement from the owner of such property authorizing the submission of the application;

(5) An acknowledgement by the applicant that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, that the city of Cortez accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana business; and that the application and documents submitted for other approvals relating to the medical marijuana business operation are subject to disclosure in accordance with the Colorado Open Records Act.

(6) A complete and accurate list of all owners, officers, managers, and employees of the medical marijuana business and of all persons having a direct or indirect financial interest, and the nature of such interest in the medical marijuana business, including names and addresses for such persons.

(7) Plans and specifications for the interior of the building in which the medical marijuana business is located. If the building is not in existence, the applications shall file a plot plan and detailed sketch for the interior and submit an architect's drawing of the building to be constructed.

(8) Evidence that the applicant is, or will be, entitled to possession of the premise for which the application is made under a lease, rental agreement, or other arranged for possession of the premises, or by virtue of ownership of the premises.

(d) The applicant shall pay to the city a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative and other costs of processing the application. A separate license fee shall be paid prior to the issuance of the local license. These fees shall be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process.

The city shall not accept or act upon an application for a medical marijuana business license if the business application concerns a particular location that is the same as or within one thousand five hundred feet of a location for which, within the two years immediately preceding date of the application, the city or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.

(Ord. No. 1164, 3-13-12)

Sec. 15-302. Renewal fee.

Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance, and may be renewed as provided in this section.

(a) An application for renewal shall be made to the city clerk not less than forty-five days prior to the date of expiration and shall be accompanied by an application fee in an amount to be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process. A licensing renewal fee shall also be collected in an amount to be initially set by resolution and each year hereafter they shall be reviewed and reset in the annual city fee resolution enacted as part of the annual budget process. The city clerk will accept late applications not more than ninety days after the date of expiration upon a payment of a five hundred dollars late application fee which shall be in addition to the renewal fee. The city clerk shall not in any circumstances accept renewal applications more than ninety days after the date of expiration.

(b) The license shall be renewed by the city clerk unless it appears to the city clerk that grounds exist to deny the renewal application, in which case the city clerk shall refer the application to the city council for

review at a public hearing. The city clerk shall rely on section 15-306 in determining whether to renew a license. The city clerk shall refer the renewal application for public hearings only if the licensee has had complaints filed against it, the licensee has a history of violations, or there are allegations against the licensee that would constitute good cause for denial of a license as defined in the Colorado Medical Marijuana Code. The city council shall rely on section 15-306 in determining whether to renew a license.

(c) A criminal history record of the applicant and all employees of applicant shall be provided to the city clerk as part of the renewal application.

(Ord. No. 1164, 3-13-12)

Sec. 15-303. Investigation of applicant.

Upon receipt of an application for a license under this article, the city clerk shall transmit copies of the application to the police department, the city manager, the planning and building department, and any other person or agency who the city clerk determines should participate in the review of the application. The city or any of its departments or officials may visit and inspect the plant or property in which the applicant proposes to conduct business and investigate the fitness to conduct such business of any person, or the officers and directors of any corporation, or the partners of any partnership applying for a license.

In investigating the fitness of the applicant, the city may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the city takes into consideration information concerning the applicant's criminal history record, the city shall also consider any information provided by the applicant regarding such criminal history record, including,

but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

Not less than five days prior to the date of the public hearing on a license application or, in the event of an application for which no public hearing is scheduled, not less than five days prior to the decision to approve or deny an application, the city clerk shall make known the findings of the investigation in writing to the applicant and other parties of interest.
(Ord. No. 1164, 3-13-12)

Sec. 15-304. Public hearings; notice; publication.

(a) Public hearings before the city council or a hearings officer appointed by the city council shall be required for the following types of applications and determinations:

(1) Applications for a medical marijuana center license or for the relocation of such license, shall be reviewed by the city council;

(2) Renewal applications when the city clerk determines grounds exist for denial per section 15-302(b) of this article shall be reviewed by the city council;

(3) Suspensions or revocations of any license, shall be heard by the city council.

(b) The following types of licenses may be approved by the city clerk:

(1) All renewal applications, unless the city clerk determines grounds exist for denial per section 15-302(b) of this article;

(c) In the event an application is scheduled for a public hearing the city clerk shall post and publish public notice thereof not less than ten days prior to the hearing.

(1) Public notice given by posting shall include a sign of suitable material, not less

than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the nature of the hearing, 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. In the case of a new license application, the sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed. The sign shall be placed on the subject premises in a location that is conspicuous and plainly visible to the general public.

(2) Public notice given by publication shall contain the same information as that required for signs.
(Ord. No. 1164, 3-13-12)

Sec. 15-305. Persons prohibited as licensees.

(a) No license provided by this article shall be issued to or held by:

(1) Any person whose criminal history indicates the person is not of good moral character;

(2) Any corporation, any of whose officers, directors, or stockholders whose criminal histories indicate such person is not of good moral character;

(3) Any partnership, association, or company, any of whose officers, or any of whose members whose criminal histories indicate such person is not of good moral character;

(4) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates such person is not of good moral character, or who is not a resident of Colorado.

(5) Any cooperative association, any of whose officers, directors, or stockholders or

members whose criminal histories indicate that such person is not of good moral character.

(6) A licensed physician making patient recommendations;

(7) A person under twenty-one years of age;

(8) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:

(A) Provide surety bond or file any tax return with a taxing agency,

(B) Pay any taxes interest, or penalties due,

(C) Pay any judgments due to a government agency,

(D) Stay out of default on a government issued student loan,

(E) Pay child support, or

(F) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency; or an outstanding delinquency for child support;

(9) A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance;

(10) A person who employs another person at a medical marijuana facility who has not passed a criminal history record check;

(11) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(12) A person whose authority to be a primary caregiver as defined in C.R.S. § 25-1.5-106(2) has been revoked by the state health agency;

(13) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food establishment; or

(14) A person who has not been a resident of Colorado for at least two years prior to the date of the person's application.

(b) In making a determination as to good moral character or when considering the conviction of a crime, the city council shall be governed by the provisions of C.R.S. § 24-5-101.

(Ord. No. 1164, 3-13-12)

Sec. 15-306. Issuance or denial of license.

(a) In determining whether to issue a license under this section the city council may consider the following:

(1) Whether the application is complete and signed by the applicant;

(2) Whether the applicant has paid the application fee;

(3) Whether the application complies with all the requirements of this article;

(4) Whether the application contains any material misrepresentations;

(5) Whether the proposed medical marijuana business complies with applicable zoning regulations. The city council shall make specific findings of fact with respect to whether the building in which the proposed medical marijuana business will be located conforms to the distance requirements set forth in the Cortez City and Land Use Codes;

(6) The facts and evidence adduced as a result of its investigation;

(7) Any other facts pertinent to the type of license for which application has been made, including the number, type and availability of medical marijuana outlets located in or near the premises under consideration; and

(8) In the case of an application for a second license, after considering the effect

on competition of granting or denying the additional license, that the issuance of a second license will not have the effect of restraining competition.

(b) The city council shall deny the license application if the application fails for good cause as defined in C.R.S. § 12-43.3-104(1).

(c) The city council may impose reasonable conditions upon any license issued pursuant to this article.

(d) Reserved.

(e) Within thirty days after the public hearing or completion of the application investigation, the city shall issue its decision approving or denying the application. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.

(f) The city shall not issue a license until the building in which the business to be conducted is ready for occupancy and has been inspected for compliance with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(g) After approval, the city shall notify the state licensing authority of such approval.

(Ord. No. 1164, 3-13-12; Ord. No. 1168, 7-24-12)

Sec. 15-307. Contents and display of license.

The licensee shall post the license in a conspicuous location at the medical marijuana business. A medical marijuana center license shall contain the following information:

- (a) The name of the licensee;
- (b) The date of issuance of the license;

(c) The street address at which the licensee is authorized to operate the medical marijuana business;

(d) Any conditions of approval imposed upon the license by the city council;

(e) The date of expiration of the license; and

(f) The license shall be signed by the applicant and the city clerk.

(Ord. No. 1164, 3-13-12)

Sec. 15-308. Transfer/termination.

A license holder wishing to transfer ownership of the medical marijuana business shall apply for such a transfer on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the city shall consider only the provisions of this article, of the Colorado Medical Marijuana Code, and any rules promulgated by the state licensing authority.

(Ord. No. 1164, 3-13-12)

Sec. 15-309. Suspension or revocation.

(a) A license issued pursuant to this article may be suspended or revoked by the city council, or the hearings officer appointed by the city council for the purpose, after a hearing for the following reasons:

(1) Fraud, misrepresentation, or a false statement of material fact contained in the permit application;

(2) Any violation of city ordinance or state law pertaining to the operation of a medical marijuana business including regulations adopted by the state licensing authority or the possession or distribution of marijuana;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any of the provisions of this section.

(b) In deciding whether a license should be suspended or revoked, and in deciding

whether to impose conditions in the event of a suspension, the city council, or the hearings officer appointed by the city council, shall consider:

- (1) The nature and severity of the violation;
- (2) Corrective action, if any, taken by the licensee;
- (3) Prior violation(s), if any, by the licensee;
- (4) The likelihood of recurrence of the violation;
- (5) The circumstances of the violation;
- (6) Whether the violation was willful; and
- (7) Previous sanctions, if any, imposed on the licensee.

(c) The provisions of the Colorado Medical Marijuana Code shall govern proceedings for the suspension or revocation of a license issued.

City council may adopt its own codes or ordinances governing the proceedings for the suspension or revocation of license issued under this article.

(d) City council or the hearings officer appointed by city council may impose a fine in lieu of a suspension in accordance with the provisions of C.R.S. § 12-43.3-601(3). (Ord. No. 1164, 3-13-12)

Sec. 15-310. Change of location.

(a) A licensee may move his or her permanent location to another location in the city, but it shall be unlawful to cultivate, manufacture, distribute, or sell medical marijuana at any such place until permission to do so is granted by the city and the state licensing authority.

(b) In permitting a change of location, the city shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this article,

the Colorado Medical Marijuana Code, and rules promulgated by the state licensing authority.

(c) The City shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought. (Ord. No. 1164, 3-13-12)

Division 2. General Requirements

Sec. 15-311. Operational requirements.

Medical marijuana centers shall comply with the following operational requirements:

(a) Medical marijuana centers shall provide clients contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.

(b) Medical marijuana centers shall operate only during the hours of 8:00 a.m. to 7:00 p.m.

(c) Medical marijuana businesses shall provide adequate security on the business premises, which shall include the following:

(1) Twenty-four-hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lot along with the interior and exterior of the premises.

Copies of all security audio or video should be retained as set forth in the Colorado Medical Marijuana Enforcement Division Rules, Section 10, Security Requirements effective 7-1-11 and as may be amended from time to time.

The business owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the business or its patients. The business owner shall not be required to produce surveillance footage disclosing the identity of business patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.

(2) A burglar alarm system that is professionally monitored and maintained in good working order.

(3) A locking safe permanently affixed to the premises suitable for storage of the centers' inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.

(4) Exterior lighting that illuminates the exterior walls of the business and that complies with the lighting code set forth in the Cortez Land Use Code.

(d) No firearms, knives, or other weapons shall be permitted in a marijuana center except those carried by sworn peace officers.

(e) Marijuana shall not be consumed or used on the premises of a medical marijuana center and it shall be unlawful for a medical marijuana licensee to allow medical marijuana to be consumed on its premises. In the case of a medical marijuana business located in a structure with a legal secondary unit or other legal dwelling unit, the dwelling unit shall not be considered part of the medical marijuana business premises if access to the dwelling unit is prohibited to the medical marijuana business customers.

(f) Medical marijuana centers shall comply with the provisions of Article XVIII, Section 14 of the Colorado Constitution and with any other relevant Colorado statute or administrative regulation. The operator of a medical marijuana business shall provide evidence of said compliance and shall permit the inspection of the premises upon request of any sworn peace officer in the employ of the city of Cortez Police Department. Inspection of the premises shall be limited to determining the quantity of marijuana and marijuana plants present on the premises and obtaining written evidence of the licensee's authority to possess such quantity of medical marijuana. Registry identification cards with patient names and other identifying information redacted shall be deemed satisfactory written evidence if the registry identification cards' serial number(s) are not redacted. In the event the medical marijuana center serves patients who have applied for a registry identification card thirty-five days or more prior to the inspection and who have not received such card, the operator may produce the patient's application form with the patient's name and identifying information redacted along with proof of mailing the form to the medical marijuana registry. In the event a patient has changed the caregiver designation on the registry identification card, the operator may produce the patient's change of caregiver form with the patient's name and identifying information redacted along with proof of mailing the form to the medical marijuana registry. The operator of a medical marijuana business shall not be required to disclose patient name(s) or other identifying information except as required by a duly issued court order or warrant.

(g) Medical marijuana centers shall sell or distribute only marijuana lawfully grown in compliance with Article XVIII, Section

14 of the Colorado Constitution, the Colorado Medical Marijuana Code, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation.

(Ord. No. 1164, 3-13-12)

Sec. 15-312. Distance requirements.

All medical marijuana businesses shall be at least one thousand five hundred feet from any school, the principal campus of any college, university, or seminary, residential child care facility or other medical marijuana business. Distance shall be computed using a route of direct pedestrian access from the nearest property line of the land used for the protected activity to the nearest portion of the building in which medical marijuana or medical marijuana infused products are sold.

(Ord. No. 1164, 3-13-12; Ord. No. 1165, 4-24-12)

Sec. 15-313. Zoning.

All marijuana businesses shall be located only in those zoning districts designated for medical marijuana businesses in the Cortez Land Use Code.

(Ord. No. 1164, 3-13-12)

Sec. 15-314. Penalty.

Any person who violates any of the provisions of this Section 15 Article XV is guilty of a misdemeanor and punishable by a fine of up to five hundred dollars and a jail sentence of up to one year or both a fine and jail sentence as set forth in Cortez City Code section 17-16-A now in effect or as may be amended from time to time.

Every day that a violation of this section and article continues shall be deemed a separate violation.

(Ord. No. 1164, 3-13-12)