

ARTICLE 050.090 RETAIL MARIJUANA

050.090.010 Purpose.

The City Council intends to allow state-licensed retail marijuana businesses to exist in Glenwood Springs in accordance with Article XVIII, Section 16 of the Colorado Constitution, C.R.S. Article 12 of Title 44, and any other applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth in the Glenwood Springs Municipal Code. Nothing within this article is intended to promote or condone the production, use, sale, testing or distribution of marijuana other than in compliance with applicable state law.

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

050.090.020 Definitions.

Except as may be amended below, all definitions set forth in Article XVIII, Section 16 of the Colorado Constitution, C.R.S. Article 12 of Title 44, and any adopted State of Colorado rules related to C.R.S. Article 12 of Title 44 are incorporated into this article. 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 retail marijuana business and registered with the City as the person responsible for all operations of the business during the owner's absence from the licensed premises.

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

Colorado Marijuana Code or *CMC* shall mean C.R.S. Article 12 of Title 44, as amended, including the Colorado Marijuana Rules in the Code of Colorado Regulations issued by the Colorado Department of Revenue Marijuana Enforcement Division, 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.

Licensed premises means the premises specified in a state application for a license supplied for approval pursuant to this article, owned or in the possession of the licensee, and within which the licensee is authorized to operate a retail marijuana business in accordance with the provisions of this article and the CMC.

Licensee means a person licensed pursuant to the CMC and approved pursuant to this article.

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 state-issued conditional license pursuant to this article, and to administer other provisions set forth herein.

Medical marijuana business shall have the same meaning as set forth in Title 070 of the City Code.

Medical marijuana business license is that issued pursuant to Article 050.080 of the City Code.

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.

Retail marijuana means marijuana grown and sold pursuant to the provisions of this article, the Amendment 64, and the Colorado Marijuana Code.

Retail marijuana business shall have the same meaning as set forth in Title 070 of the City Code.

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

050.090.030 License required.

It shall be unlawful for any person to operate a retail marijuana business without first having obtained local approval for a state-issued conditional license pursuant to the provisions of this article and having paid all fees therefor.

- (1) Any retail marijuana business shall comply with the approval requirements of this article, the CMC, and any other applicable state or local laws and regulations.
- (2) The approval 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, change of use, zoning or building permit.
- (3) Approval of a separate state-issued conditional license shall be required for each location from which a retail marijuana business is operated.
- (4) Retail marijuana businesses shall prove compliance with the CMC and City Code criteria and requirements before approval of a license by the City in the following classes:
 - a. Retail marijuana store.
 - b. Retail marijuana products manufacturer.
 - c. Retail marijuana cultivation facility.
 - d. Retail marijuana testing facility.
- (5) All retail marijuana business licenses approved by the City shall be valid for a period of one (1) year from the date such license is issued.
- (6) Renewal applications shall be subject to review as detailed in the CMC and any local rules, policies and procedures.
- (7) Licensees shall report and submit to review each transfer or change of ownership interest, change in business manager, change in location or change in financial interest as detailed in the CMC and any local rules, policies and procedures.

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

050.090.040 Limitations of license.

- (a) Approval of a state-issued conditional retail marijuana business 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.
- (b) If the state prohibits the sale, cultivation or other distribution of marijuana through retail marijuana businesses authorized in the CMC, any state-issued conditional license approved by the City pursuant to this article shall be deemed to be immediately revoked by operation of law, with no grounds for appeal or other redress on behalf of the licensees.

050.090.050 Application.

- (a) An application for a retail marijuana business license shall be made as required by the CMC. The application shall be used to demonstrate compliance with the provisions of this article, the City Code, CMC, Amendment 64 and any other applicable law, rule or regulation. In addition to general information required, the application for approval of the state-issued conditional license shall include the following information:
 - (1) An operating plan for the proposed retail 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 containing retail marijuana, and whether any retail marijuana products or services will be provided at a location different than the premises on the license application.
 - (2) A dimensional 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 employees only; storage areas; retail sales areas and areas where retail marijuana will be distributed; and production areas.
 - (3) Sign, security and lighting plans indicating how the applicant will comply with the requirements of the CMC 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 retail marijuana business is located, the proximity of the property to any kindergarten through 12th grade public or private school; park designated in Section 090.030.010(b) excluding subsection (15); mental health facility or drug treatment facility, and indicating, within a radius of one thousand (1,000) feet, any other retail marijuana or medical marijuana business or marijuana cultivation facility.
 - (5) Any other information necessary to determine compliance with any provision of the City Code, the CMC or any other applicable law or regulation.
- (b) An application for approval of a state-issued conditional retail marijuana business license shall be accompanied by the operating fee. Such fee shall be established by resolution of the City Council.
- (c) The Local Licensing Authority shall conduct an initial review of the retail 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 has been fully reviewed by the Colorado Department of Revenue Marijuana Enforcement Division;
 - (3) The application for a license concerns a particular location that is greater than five hundred (500) feet of a location for which, within the 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.
- (d) Within forty-five (45) days of receipt of the retail marijuana business license approval application material, if the approval application does not meet one (1) or more of the review items in subsection (c) 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 (c) above, the application containing any false or misleading information, or the failure to meet any applicable laws, rules or regulations.

- (e) All applications for local approval of a state-issued conditional retail marijuana business license shall require a public hearing before the Local Licensing Authority, inclusive of publication and posting requirements as set forth in the CMC 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 retail 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 section 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 conduct of 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.
- (8) An inspection of the proposed retail marijuana business by the City, including, but not limited to, building and fire inspectors and law enforcement officers, shall be required prior to local approval of a state-issued conditional license. Such inspection shall occur after the licensed premises are ready for operation but prior to the opening of the business 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, the CMC, and laws and regulations of the State of Colorado.
- (9) The Local Licensing Authority shall notify the state licensing authority of such decision.

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

050.090.060 Persons prohibited as licensees.

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

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

050.090.070 Location of licensed business.

Retail marijuana businesses shall be located only in areas of the City as allowed in the City Code. No retail 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 retail marijuana businesses;
- (2) Within one thousand (1,000) feet of another retail marijuana business, medical marijuana business, or marijuana cultivation facility. A retail marijuana businesses may locate on the same licensed premises as a medical marijuana business of the same class and same ownership, only if the licensed premises meets the distance requirements from other retail marijuana and medical 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; and
- (3) In any zone district not specifically permitted by the City Code.

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

Editor's note(s)—Ord. No. 27-2020 , § 2(Exh. A), adopted Nov. 19, 2020, changed the title of § 050.090.070 from location of licensed establishment to location of licensed business.

050.090.080 Persons allowed on licensed premises.

- (a) A licensee shall only allow persons authorized under the CMC and City Code on the licensed premises including, but not limited to, 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.
- (b) Any retail marijuana business shall not allow anyone under the age of twenty-one (21) to be present on the licensed premises.
- (c) A retail marijuana business allowed to locate on the same licensed premises as a medical marijuana business in accordance with this article shall not allow anyone under the age of twenty-one (21), including medical marijuana patients, on the licensed premises.

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

050.090.090 Requirements related to operation of a retail marijuana business.

- (a) Retail marijuana businesses shall meet all operational criteria for the procurement, display, dispensing, labeling, sanitation, security, and any other criteria as required by the state pursuant to the CMC.
- (b) In addition, all retail marijuana businesses shall comply with the following local restrictions:
 - (1) Any applicable City business/sales tax license shall be obtained and all applicable state, county, city, and special district sales taxes shall be collected and remitted in a timely manner.
 - (2) Hours of operation shall be limited to between 8:00 a.m. and 7:00 p.m. Monday through Sunday.
 - (3) A sign permit shall be obtained through the Community Development Department. All exterior signage associated with a retail marijuana business will meet the standards established in the CMC, the Code of Colorado Regulations, and in the City Code.
 - (4) A lighting plan shall be submitted to the Community Development Department and comply with the requirements of the City Code and CMC.
 - (5) No licensee shall allow the smoking of marijuana in public or consumption of any marijuana products on the licensed premises as prohibited by the CMC, other state law and City Code.
 - (6) All sales and distribution of retail marijuana shall occur only upon the licensed premises. The licensee is strictly prohibited from delivering retail marijuana to any person at any location other than the licensed premises.
 - (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 retail marijuana business legible signs as required by the CMC, including but not limited to:
 - a. A warning that the use of 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;
 - b. A warning that loitering in or around the marijuana store is prohibited by state law;
 - c. A warning that possession and distribution of marijuana is a violation of federal law;

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- d. A warning that consumption of marijuana within a retail marijuana business is prohibited;
 - e. A warning that the smoking or consumption of marijuana in public is prohibited by state law;
 - f. A notice that no-one under the age of twenty-one (21) is allowed on the licensed premises;
 - g. The name and contact information for the owner or owners and any business manager of the retail marijuana business;
 - h. The retail marijuana business license; and
 - i. All sales tax/business licenses.

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

Editor's note(s)—Ord. No. 27-2020 , § 2(Exh. A), adopted Nov. 19, 2020, changed the title of § 050.090.090 from requirements related to operation of a retail marijuana establishment to requirements related to operation of a retail marijuana business.

050.090.100 Inspection of Books, Records, Licensed Premises, and Inventory.

- (a) Any retail marijuana business approved by the City pursuant to this article may be required to demonstrate, upon demand by the City Manager or his 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 retail marijuana business shall keep and maintain a complete set of books and records as required by the CMC. All such records shall be open at all times required by the CMC. The City may require the licensee to furnish such information as it considers necessary for the proper administration of this article.
- (b) 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.
- (c) Acceptance of a retail marijuana business license approved by 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 retail marijuana business premises to ensure compliance with this article, the City Code, the CMC or any other applicable law, rule or regulation.

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

050.090.110 Reserved.

Editor's note(s)—Ord. No. 17-2015 , § 2(Exh. A), adopted Aug. 20, 2015, repealed § 050.090.110, which pertained to rules, policies and procedures and derived from original codification.

050.090.120 Disciplinary Actions.

A violation of any provisions of the CMC or the City Code shall be grounds for suspension, revocation or other disciplinary actions of a retail marijuana business license. The procedures for such suspension or revocation or other disciplinary action shall be as provided in the CMC, the City Code and any and all applicable rules and regulations adopted pursuant thereto. In addition to suspension, revocation, or other disciplinary actions, the Local Licensing Authority is hereby authorized to impose civil penalties for 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.

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

050.090.130 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.

050.090.140 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 as outlined in Section 050.090.130.

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