

City Ordinance No. 347

Title 5

BUSINESS LICENSES AND REGULATIONS.

Chapter 5.12

MEDICAL MARIJUANA

Sections:

5.12.010 Applicability; failure to maintain state authorization

5.12.020 License; Application; Fee; Change; Confidentiality

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5.12.010 - Applicability; failure to maintain state authorization.

- A. For purposes of this division, the definitions, words, phrases, and expressions as set forth in this division are to be construed the same as those set forth in the Montana Medical Marijuana Act (MCA 50-46-301 et seq.).
- B. Any individual or entity licensed under this division to conduct any transaction, use or business involving medical marijuana, in addition to the requirements of this division, is subject to all other requirements of this Code, and the Montana Medical Marijuana Act and any limits on possession, clean air, etc. and any applicable administrative rules established by the State. Should such rules or laws change, any person or entity licensed under this division shall immediately come into compliance with any newly adopted rules.
- C. Notwithstanding the above, nothing in this Code shall be construed to authorize any person or entity to perform any act or conduct any enterprise not in conformance with state or federal law.
- D. Compliance with this Code does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities.
- E. Each individual or entity issued a license under this division shall at all times maintain authorization from the State of Montana under the Montana Medical Marijuana Act to acquire, possess, cultivate, manufacture, deliver, transfer, or

transport medical marijuana. Failure to maintain authorization under the Medical Marijuana Act shall be cause for immediate suspension of a license issued under this division and may be cause for revocation or cause for criminal prosecution as provided by law.

5.12.020. - License; application; fee; change; confidentiality.

A. Business licenses.

1. In addition to complying with the requirements of MCA tit. 50, ch. 46, and section 5.12.010.E, any individual or entity desiring to conduct any transaction, use, or business regarding medical marijuana within the City of Baker must first submit and obtain approval for an application for a business license under this chapter from the City Council and pay the fee(s) for such license(s) as established by the City Council. An activity where a duly licensed medical doctor engages in the review of a person's medical condition for purposes of recommending medical marijuana and who does not provide medical marijuana to a qualifying patient is not subject to these licensing requirements but may be subject to other requirements of this Code.
2. There shall be the following types of business licenses related to medical marijuana activities conducted in the city regardless of whether the medical marijuana is sold, bartered, exchanged, or gifted:
 - a. *Storefront/retail locations.* Any person or entity that provides a location other than the residence of the person's or entity's qualifying patient where a transaction or use related to medical marijuana is engaged in for more than three qualifying patients registered by the state to the applicant or the applicant's employees or agents shall, prior to engaging in such transaction or use, obtain a medical marijuana storefront license. As of January 31, 2012, the maximum number of medical marijuana storefront licenses shall be two (2). The limitation on the maximum number of licenses under this subsection shall repeal automatically one year after the effective date of the ordinance from which this division is derived.
 - b. *Delivery.* Any person or entity that delivers medical marijuana within the city to more than three qualifying patients or another entity regardless of whether the medical marijuana is sold, bartered, exchanged, or gifted shall prior to engaging in such activity obtain a medical marijuana delivery license.
 - c. *Growing and/or processing.* Any person or entity that operates a facility for the purpose of growing and/or processing medical marijuana shall prior to engaging in such activity obtain a medical marijuana grow license.

A person or entity desiring to engage in an activity related to medical marijuana must obtain a separate license for each activity described in this subsection A.2 except a person or entity obtaining a medical marijuana storefront license may also under said license deliver medical marijuana from that location without obtaining a separate medical marijuana delivery license.

B. *Application information.* An application under this division shall include the following:

1. The name of all owners/principals of the business as applicable and the name of all agents, contractors or employees, if any;
2. Documentation demonstrating the applicant and all owners/principals, agents, contractors or employees, as applicable, that may be involved in transactions regarding medical marijuana within the city are registered with the state under the Montana Medical Marijuana Act (MCA 50-46-301 et seq.), and are duly authorized by state law to acquire, possess, cultivate, manufacture, deliver, transfer, or transport medical marijuana;
3. A sworn statement signed by the applicant verifying the number of qualifying patients which name the applicant and any other owner/principal, agent, contractor, or employee of the applicant as the qualifying patient's caregiver. The number of qualifying patients to be included in the sworn statement shall include all patients who may be registered with a caregiver acting as an agent, contractor, employee or owner/principal of the applicant;
4. A statement addressing how the applicant will comply with the security requirement provisions of section 5.12.040; and
5. Each applicant for a business license shall provide a detailed statement regarding the nature of activities related to medical marijuana for which the applicant is engaged in and the specific license for which an application is being submitted.

C. *Duty to inform.* An individual or entity licensed under this division to conduct a transaction, use, or business related to medical marijuana must, within the time period described below, inform the City Council of the occurrence of the following:

1. Every 90 days, any change to the licensed individual or entity's number of registered qualifying patients (including those of a principal/owner, agent, contractor, or employee); and/or

2. Every 30 days, a change in the principals of the business or a change of agents, contractors or employees.

If either of these conditions occur, a new statement under subsection B.3 of this section is required. Failure to inform the City Council of the changes listed herein within the time periods described above shall be cause for revocation of the license.

- D. *Public document.* An application for business license under this division is a public document except that the names of all agents, employees and/or contractors and the number of qualifying patients provided to the city in fulfillment of the requirements of this division are to be kept on a separate form and are to be considered confidential by the city unless disclosure is required by law. Nothing herein shall prevent a duly authorized agent of the city from sharing the information described in this section with other authorized city employees or other state or local law enforcement as necessary to perform official duties.
- E. *Nontransferable.* A license issued under this division is not transferable.

5.12.030. - Inspection.

As a condition of receiving a business license under this division, a city employee, including city law enforcement, may without notice during normal business hours inspect any premises under license pursuant to this division to determine whether the licensee is in compliance with the Montana Medical Marijuana Act (MCA 50-46-101 et seq.), or any other state or local regulation, and may inspect the number of plants or amount of marijuana or usable marijuana on the premises or in control of the licensee to determine whether these amounts correspond to the amounts established by the Montana Medical Marijuana Act, which the licensee is authorized to lawfully possess.

5.12.040. - Security requirements.

Prior to issuance of a license under this division, a medical marijuana commercial business where any amount of marijuana or usable marijuana is stored on the premises beyond normal business hours or where marijuana is grown in any amount shall be secured at all times by a physical barrier with suitable locks and also by an electronic barrier or alarm that is designed to detect entry by unauthorized persons at any time. In addition, any marijuana or usable marijuana grown or stored on the premises after normal business hours shall be kept in a security safe incorporated into the building's structure or securely attached thereto.

5.12.050. – Revocation of License

- A. *Suspend or Revoke.* The City Council may suspend or revoke a license when the licensee commits one or more of the following acts or omissions:
1. The violation of any provision of this chapter;
 2. The violation of any ordinances provisions relating to the health, safety and welfare of the citizens of the community; or
 3. The securing of any license by fraud or misrepresentation, to specifically include false or incorrect information on the license application.
- B. *Procedure.* When any of the acts or omissions as herein enumerated are committed by a license holder and the license is suspended or revoked, the procedure shall be as follows:
- (1) The licensee shall be notified in writing by the City Council at least seven days prior to the action contemplated and the reasons therefore.
 - (2) Upon receipt of the notice, the licensee may request a hearing. Such request shall be in writing and shall be received by the City Council within seven days of the receipt of notice. Failure on the part of the licensee to request a hearing in writing and within the specified time period shall be deemed a waiver of the licensee's right to a hearing.
 - (3) If a hearing is requested by the licensee, the City Council shall set a time, date and place and shall so notify the licensee, in writing.
 - (4) When a hearing is conducted, the licensee and other interested parties may be in attendance. The city shall present the evidence supporting the contemplated action. The licensee may present evidence. The City Council shall take all evidence admitted under advisement and once a decision has been made, the City Council shall notify the licensee of the findings and rule in writing.