

MEDICAL MARIJUANA LICENSING AUTHORITY

CITY OF FORT COLLINS, COLORADO

RULES OF PROCEDURE

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Authority

The Fort Collins Medical Marijuana Licensing Authority (“Authority”) promulgates these rules pursuant to Article XVI, Section 15-463(c) of the Fort Collins Municipal Code to ensure compliance with the Colorado Medical Marijuana Code, C.R.S. §§ 12-43.3-101 *et seq.* and related rules and regulation adopted pursuant to that statutory authority.

Rule 1 **Applicability of Rules**

In addition to any other rules or laws that may be applicable, these rules shall govern all proceedings before the Fort Collins Medical Marijuana Licensing Authority. The Authority reserves the right to waive or modify any procedural or non-substantive Rules set forth herein.

Rule 2 **Pre-filing of documents for hearings**

All documents, petitions, and other exhibits that any party to a hearing intends to submit to the Authority for consideration pursuant to a hearing must be filed with the City Clerk’s Office at least five (5) working days preceding the date scheduled for the hearing unless the Authority approves a different filing deadline.

Rule 3 Written decision required on initial application

Within thirty (30) days of completion of the application investigation, the Authority shall issue a written decision approving or denying the application and stating the reasons for the decision. After an application has been approved, the Authority may also issue an Order Refusing to Issue License upon receiving evidence of good cause for such refusal pursuant to C.R.S. § 12-43.3-303(1). The Authority shall send a copy of any decision or order to the applicant at the address shown in the application by certified mail, return receipt requested.

Rule 4 Appeals of denials of initial applications or refusals to issue licenses

Applicants who have their initial applications denied or whose approved applications are the subject of an Order Refusing to Issue License may appeal the decision or order to the Authority within fourteen (14) days of the date upon which the decision was mailed. All appeals must be written and shall state the following information: the name of the applicant, the date upon which the appeal is filed, and all grounds for appealing the decision or order. All appeals concerning licenses for medical marijuana businesses shall be filed with the City Clerk's Office in a timely manner and in accordance with these Rules. If an applicant does not file a complete and timely appeal of a decision or order, the denial of the license application or refusal to issue a license shall become final. A final decision on a refusal to issue a license shall cause the Authority to revoke its approval of the initial application. Such revocation shall constitute a denial and a final decision upon the application.

Rule 5 Hearing procedures for appeals of denials of initial applications or refusals to issue licenses

- A. Upon receipt of a complete and timely appeal, the Authority will schedule a hearing and notify the applicant of the date, time, and place of the hearing and the issues to be addressed at the hearing. The Authority may make such notification by telephone provided that a written notice shall also be mailed or delivered to the applicant at the address shown in the application at issue. The hearing shall take place within thirty (30) days of the City Clerk's receipt of the written request for a hearing unless the Authority grants an extension of this period for good cause not to exceed an additional thirty (30) days.
- B. The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records at any hearing that the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.
- C. The purpose of the hearing is to receive information through testimony from applicants and any other parties with relevant testimony and the submission of documents into evidence in order to enable the Authority to make findings and reach conclusions as to whether or not the license applied for was properly denied or not issued. The Authority will conduct the hearing pursuant to the laws, rules, and regulations of the State of Colorado, the City of Fort Collins, the City of Fort Collins Rules and Regulation Governing Medical Marijuana Businesses, and these hearing procedures.

- D. At the hearing, the Authority shall hear and consider such evidence and testimony presented by the City, the applicant, and witnesses called by either party that is relevant to the grounds stated in the written appeal. The Authority may also inquire into other matters related to the matter being appealed if such concerns arise during the course of the hearing.
- E. The applicant/appellant shall have the burden of proving it is in compliance with all state and local medical marijuana business licensing requirements and all terms and conditions for issuance of a license pursuant to an approved application.
- F. The hearing shall be conducted in accordance with the following procedures:
1. The hearing shall be recorded. Any person requesting a transcript of such record shall reimburse the City for the reasonable cost to prepare the record. Those who testify before the Authority will be placed under oath and will begin their testimony by stating their full name and address.
 2. The order of the hearing shall be as follows:
 - a. The applicant/appellant shall have the opportunity to present evidence in support of its contention that the denial of its application or refusal to issue a license pursuant to its approved application was not justified.
 - b. The City shall have the opportunity to present evidence in support of its recommendation.
 - c. The applicant/appellant shall have the opportunity to present evidence in rebuttal to evidence presented by the City.
 - d. The Authority shall have the opportunity to ask questions of each witness or to request either the applicant or the City to provide additional documentation concerning the issue on appeal.
 - e. The Authority will make its determination as to whether the initial denial of the license or refusal to issue a license should be overturned or affirmed. The Authority may either make this determination immediately or after taking the matter under advisement.
 3. The Authority will admit exhibits and testimony into evidence if it determines that such information is of probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs concerning the issue on appeal. The formal rules of evidence shall not apply. The Authority, in its discretion, may limit the presentation of evidence to prevent repetitive or cumulative evidence or examination.
 4. The applicant/appellant and the City may be represented by an attorney or other representative at the hearing. The City will, upon request, provide a qualified legal interpreter at no charge if either the applicant or a witness has limited English proficiency.

Rule 6 Written order on appeal

Within fourteen (14) days following the conclusion of the hearing, the Authority shall send a written order to the applicant at the address shown on the application in issue by mail with delivery confirmation. The order shall include findings of fact, a decision concerning the matter on appeal, and the reasons supporting such decision. The order shall be a final decision of the Authority subject to appeal in conformance with state and local law and compliance with any terms or conditions upon the license or the issuance thereof. If the Authority approves the application in this final order, then the applicant may seek issuance of a license from the City Clerk in accordance with state and local law. If the Authority finds that there was good cause to refuse to issue a license, then the Authority shall revoke the approval of the application. Revocation of an application approval shall constitute a denial and a final decision upon the application. For purposes of any appeal, the decision shall be final upon the earlier of the date upon which the applicant receives the order or four (4) days after the date of mailing.

Rule 7 Notice procedures for nonrenewal of a license

- A. If a licensed medical marijuana business has had complaints filed against it, has a history of violations, or there are allegations that a licensee has failed to comply with state and/or local requirements that could constitute good cause, the City Attorney may file a written complaint with the Authority setting forth the circumstances indicating that the Authority should not renew the license.
- B. Upon filing of such complaint, the Authority shall cause to be posted a notice of hearing on the licensed medical marijuana center premises in accordance with §12-43.3-302(2), C.R.S. for a period of ten (10) days and shall provide notice to the applicant at least ten (10) days prior to the hearing.
- C. The hearing shall be conducted in accordance with the procedures set forth in Rule 8 of these Rules.

Rule 8 Hearing procedures for nonrenewal, suspension, or revocation of a license

- A. If there is probable cause to believe that a licensee has violated or permitted a violation of state and/or local law, rules, or any of the terms, conditions, or provisions of the license, the City Attorney may file a written complaint with the Authority setting forth the circumstances of the violation. The Authority may, on its own motion, also file a written complaint against a licensee setting forth the circumstances of the violation.
- B. Upon receipt or filing of such complaint, the Authority will schedule a hearing. The hearing shall take place within thirty (30) days following the date of mailing of the complaint and notice to the licensee unless the Authority grants an extension for good cause not to exceed an additional thirty (30) days. The Authority shall mail a copy of the complaint to the licensee at the address shown on the license application together with a notice to appear before the Authority for the purpose of a hearing to be conducted at a specified date, time, and place to show cause why the licensee's license should not be renewed or should not be suspended or revoked.

- C. The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records at any hearing that the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.
- D. The purpose of the hearing is to determine whether a violation occurred and to allow the licensee to “show cause” why a penalty should not be levied against the licensee if a violation is found to have occurred and, if designated by the Authority in conjunction with an annual review of all licenses pursuant to Section 15-488(c) of the City of Fort Collins Municipal Code, to hear evidence and testimony presented by the general public that is relevant to the effects of the license on the surrounding community and the city at large.
- E. The hearing shall be conducted pursuant to the laws and rules and regulations of the State of Colorado, the City of Fort Collins, the City of Fort Collins Rules and Regulations Governing Medical Marijuana Businesses, and these hearing procedures as follows:
1. The hearing shall be recorded. Those who testify before the Authority will be placed under oath and will begin their testimony by stating their full name and address.
 2. The order of the hearing shall be as follows:
 - a. The City (“prosecution”) and then the licensee shall have the opportunity to present a brief opening statement. The licensee may reserve this opportunity to the beginning of the licensee’s case.
 - b. The prosecution presents its evidence in support of its position that the licensee has committed one or more violations. The licensee will have the opportunity to cross-examine each of the prosecution’s witnesses. The Authority may also question any witness. The burden of proof is upon the prosecution to prove by a preponderance of the evidence that the licensee committed a violation or that there is good cause for not renewing the license, or for suspension or revocation.
 - c. If applicable, any member of the general public may present evidence regarding the effects of the license on the surrounding community and the city at large.
 - d. The licensee will have the opportunity to present evidence on its behalf. The prosecution will have the opportunity to cross-examine each of the licensee’s witnesses. The Authority may also question any witness.
 - e. The prosecution will have the opportunity to present evidence in rebuttal to evidence presented by the licensee. The Authority has the discretion to allow additional rebuttal evidence from the prosecution or, if applicable, the general public.

- f. The prosecution and then the licensee shall each have the opportunity to make a brief closing statement. The prosecution will have the opportunity to make a brief rebuttal closing statement because it bears the burden of proof in this hearing.
3. The Authority will admit exhibits and testimony into evidence if it determines that such information is of probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs concerning the issue on appeal. The formal rules of evidence shall not apply. The Authority, in its discretion, may limit the presentation of evidence and cross-examination to prevent repetitive or cumulative evidence or examination.
4. The prosecution and the licensee may be represented by counsel. The City will, upon request, provide a qualified legal interpreter at no charge if either the applicant or a witness has limited English proficiency.
5. The Authority will make its determination as to whether the licensee has violated any provisions of Article 43.3 of Title 12 of the Colorado Revised Statutes, the regulations adopted pursuant thereto, the ordinances of the City of Fort Collins governing medical marijuana businesses and the City of Fort Collins Rules and Regulations Governing Medical Marijuana Businesses. The Authority may either make this determination immediately or after taking the matter under advisement. If the Authority determines that a violation occurred, the Authority will permit the parties to submit in writing evidence not previously received that demonstrates aggravating or mitigating circumstances surrounding the violation, along with a recommendation as to any penalty to be imposed. The prosecution shall submit its evidence to the Authority first and provide a copy to the licensee and then the licensee shall submit its evidence to the Authority with a copy to the prosecution, in accordance with any deadlines that the Authority imposes. If a licensee has been designated a responsible vendor in accordance with § 12-43.3-1102(3), C.R.S., the Authority shall consider the designation as a mitigating factor when imposing sanctions or penalties on the licensee. The Authority will then make its determination as to penalty.

Rule 9

Written order required on proposed renewals, suspensions, and revocations

Within fourteen (14) days following the conclusion of the hearing, the Authority shall send a written order to the applicant at the address shown on the application in issue by mail with delivery confirmation. The order shall include findings of fact from the statements and evidence offered at the hearing and shall reach a conclusion regarding whether the alleged violations occurred or if other good cause exists for not renewing the license. If the Authority determines that a violation occurred or other good cause exists that warrants denial of renewal, suspension, revocation, modification, or imposing conditions upon the license, the order shall also set forth the applicable action to be taken or specific conditions to be imposed. The order shall be a final decision of the Authority subject to appeal in conformance with state and local law. For purposes of any appeal, the decision shall be final upon the earlier of the date upon which the applicant receives the order or four (4) days after the date of mailing.

Rule 10

Computation of time

In computing any period of time prescribed by these procedures or imposed by the Authority, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday. All filings will be deemed timely if received by 5:00 p.m. by the applicable person or entity and on the applicable day specified in these Rules. All time periods set forth in these Rules shall be calculated in terms of calendar days unless a particular rule specifies a different method of calculation.

ADOPTED THIS 29th DAY OF AUGUST, 2013.

FORT COLLINS MEDICAL MARIJUANA LICENSING AUTHORITY

by and through the City of Fort Collins



Kathie B. Guckenberger

City of Fort Collins Medical Marijuana Licensing Authority