

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 regulations 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 and with the opposing counsel or party 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 for license**

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 approval, 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

The Authority's decision to deny an initial application or to refuse to issue a license shall be a final decision. 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. All such final decisions are 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 5 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 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 6 of these Rules.

Rule 6 Hearing procedures for non-renewal, 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 City Clerk 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 (1) 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; (2) whether the license should not be renewed; or (3) if designated by the Authority in conjunction with an annual review of all licenses pursuant to Section 15-486(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 Fort Collins Municipal Code, 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 or any other basis for non-renewal. 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 before the Authority. 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 regarding non-renewal and/or 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 Fort Collins Municipal Code 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 7 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.

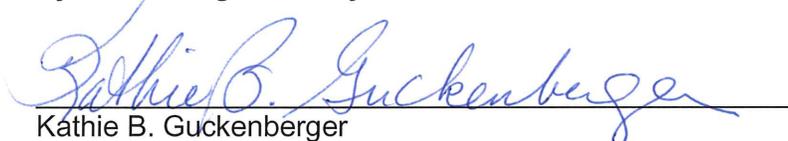
Rule 8 Computation of time

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 4th DAY OF AUGUST, 2014.

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