

## Application Filing

**I am confused about which changes in ownership and changes in individual owners, financiers, managers or employees require new license applications and which can be accommodated by changes to our pending application. Which changes require a new application?**

There are a few clarifications that need to be made so that separate categories are not mixed together in order to answer your question.

1. Ownership is separate from financial interest. All persons with an ownership interest are considered to have a financial interest, but not all persons with a financial interest are owners.
2. For the 117 applications of medical marijuana business licenses that represent the businesses that were allowed to open before receiving licenses, the answers can be different than they will be for businesses that do not open until they receive a license. Part of that is because the fact patterns are different. The reality part is that the city staff does not have the luxury of being flexible when there is a large pool of applications that must be completely processed within a specific deadline. Once the initial applications are processed and the staff starts receiving applications one at a time, more flexibility may be possible.
3. For medical marijuana business license applications and sales and use tax applications, the person, which includes the business entity, that is named on the application as the applicant is considered the owner for purposes of evaluating transfers and location requirements. Whether the applicant named is owned by another corporation, uses a tradename, or other variation, does not change that the person applying is the applicant.
4. Any change in any of the individuals that require a background check identified in the submitted application requires a new application (except managers or employees described in 5 below).
5. The City Licensing Manager recognizes that changes of Business Managers or employees can be out of the control of the applicant and is trying to accommodate such changes for the MMBs that submitted applications before November 1, 2011 while also trying to process an avalanche of applications as soon as possible. To do so, she is permitting changes in business managers or employees requiring background checks between the time of the application and issuance of the license, but no other changes in the persons requiring background checks can be accommodated.

Therefore a new application is required whenever a change occurs in the following between the time a MMB application is submitted, and the license is issued or the application denied:

- Any change in any of the individuals named in the application that submitted background checks, except managers and employees. The changes that do require a new application include owners and financiers.
- Any change in ownership requires a new application until the first MMB license is issued by the city for the applicant. Once the first license is issued for a MMB, ownership

changes that do not change the applicant can be processed as allowed in 6-14-6 and 6-14-8 without a new application.

A new application is not required for:

- A change in any of the managers or employees that do not hold an ownership or financial interest in the business. However, the applicant is required to give notice of such changes, and provide the background check information, as soon as possible after the applicant is aware the change will be or has occurred.

Prior to any applicant making any changes that require submittal of a new license application, the MMB must close and cannot re-open until and unless a MMB license is issued on the new application.

**Do we file separate license applications for each location (i.e., one for the retail center and one for the growing operation)?**

Yes, see [Section 6-14-3\(d\)](#), B.R.C. 1981.

**Is page 6 of the application form for city agencies only? If not, please advise on the information you want us to provide.**

Page 6 of MMB License Application is for internal city staff use. You do not have to fill in anything on page 6 of the Application.

- Each affected department will provide a basis for its recommendation.

**When I attach a copy of the state MMED filing to my Boulder MMB application, do I need to attach the supporting documentation?**

- No. You are only required to attach a copy of the state MMED. You do not need to provide the city the attachments submitted to the state.

**Can a center/warehouse name more than one manager in addition to the owners at the bottom of page 1 of the application?**

Yes, see [Section 6-14-8\(e\)](#), B.R.C. 1981. See below details:

- You can name as many managers as you wish.
- You will need a fingerprint card and Background Check and Financial Interest Record for all managers.

One of the named managers or an owner must be at each medical marijuana business during all times another person is at the business, whether the business is open or closed.

**Question #2, on the city application, asks for the name, date of birth, FEIN/SSN, and ownership percentage of owners and investors. What should we put down for the Date of Birth if the investor is a corporation?**

The date the corporation was formed.

## **Background Checks**

**I am preparing the information for the background check and financial history on a financier. He is reluctant to release his bank statements with his account number on them. Can that information be redacted?**

The only bank records the city is currently requiring are for the business entity.

- No bank records need be submitted for persons submitting background check forms.
- The city is redacting bank account numbers, social security numbers, driver's license numbers, personal phone numbers, and other personal information from the city's public records.

**If a financier of a medical marijuana business is another business entity, what documentation is needed to conduct a background and financial check?**

For each business entity which is a financier in a medical marijuana business:

- All members of the funding entity must provide a completed background check form.
- This applies to loans or gifts.
- A financier does not include a bank and, thus, does not require background checks of its members. See [Section 6-14-2](#), "Definitions" and section [Section 6-14-5\(a\)](#), B.R.C. 1981.

**I don't understand the "and / or" component in question 23 of the Background Check form.**

- This question is asking for the date that your Sales and Use Tax License was issued OR the date that you filed for a Sales and Use Tax License.

**What are we required to do for a background check, other than giving you a check for \$38.50 for each fingerprint card submitted?**

For the background check requirements, please see Attachment B to the application.

**Do you require an original of each background form and fingerprint card for the same individual for each application?**

The city needs only one background check for an individual even if that individual is a party to several licenses.

- You should provide the original fingerprint card for the main application and copies with the other applications.
- Each copy should include a note stating the application where the original fingerprint card is located.

**On page 1 of "City of Boulder Medical Marijuana Business License Background Check and Financial Interest Record," question # 8: Does this question refer to ownership interest in the current applicant?**

Each question must be answered by each individual, including each person with an ownership or financial interest in applicant and a separate complete Background Check and Financial Interest Record Form must be filed for each individual that is required to obtain a background check for the business.

This is stated on page 2 of the Checklist for all of the documents to be submitted with an application as Attachment B

**Is there a time limitation on how far back we would go in including misdemeanor convictions?**

No. There is no time limit. Any recent or repetitive infractions may be problematic.

- To provide a complete application, please include all court records on all violations.
- If you have completed any sentencing conditions, such as classes or probation, and you want to provide the city with rehabilitation records, the status of completion of such conditions from the supervisor should be included. ([Section 6-14-6](#), "Persons Prohibited as Licensees and Business Managers", B.R.C. 1981)

**If a MMB license application is rejected because one of the key people is not of good moral character, is the whole business license application denied or simply the person who failed to meet the standards?**

If one person's background check or financial interest research done by the city indicates denial, then the whole Medical Marijuana Business License application will be denied.

- The basis for the application denial will be provided in writing to the applicant.
- The business may reapply once the person who did not pass is divested from all interest and employment of the business.

The new application would require a new MMB license application, new license fees, and the business could not operate legally until all required licenses were issued.

**Bank Statements**

**Do you need bank statements for just the business or for everyone with a financial interest in a licensee?**

The Financial Interest Record has been amended to require only 3 months of bank records for only the MM business applying for the license.

## **Insurance Requirements**

**Our business is small and has no employees. The owners are currently not taking home paychecks. Do we still need workers compensation insurance?**

- Worker's compensation insurance is a requirement of state and federal law. The city cannot give individual legal advice and answering the question would be giving individual legal advice on the application of state and federal law.
- With respect to application of the Boulder Code, all MMBs must provide evidence of insurance as specified in [Section 4-1-8](#), "Insurance Required", B.R.C. 1981, which includes worker's compensation insurance if required by state or federal law.

**Can we use one insurance policy for two businesses (a cultivation facility and a center) or do we need two separate policies?**

- [Section 6-14-4\(c\)](#), B.R.C. 1981 specifies the minimum insurance required by the city, but there is no maximum.
- Therefore, the certificate of insurance can cover more than the city's minimum. However, to submit the same insurance policy for two separate businesses, you must submit a certificate of insurance with each application. The certificate submitted with an application must verify that there is at least the minimum insurance required for the applicant.

## **Secretary of State Information**

**What document does the city want from the Secretary of State for my corporation?**

If your corporation is in good standing with the state, a "Certificate of Good Standing" can be printed from the [Secretary of State website](#).

Submit this certificate with your medical marijuana business license application.

The date on the certificate cannot be more than 30 days before the application is submitted to the city.

**In our application to the state, as an LLC, we simply provided a copy of our Articles of Organization as it prints out from the Secretary of State website. When you say that the copy we provide must be stamped by the Secretary of State, what do you mean?**

The city will accept a color copy of the "Certificate of Good Standing" printout from the Secretary of State website as documents stamped by the Secretary of State.

## Neighborhood Responsibility Plan

### What does a Neighborhood Responsibility Plan include?

The Neighborhood Responsibility Plan (described in [Section 6-14-5\(a\)\(6\)\(C\)](#), B.R.C. 1981) must demonstrate how the business will fulfill its responsibilities to the neighborhood, including a description of:

- The outreach to the neighborhood that the business has performed in the past and anticipates for the future; and
- The manner in which the business will communicate in the future with the neighbors, including both communications from the business as well as communications the neighbors to the business
- The manner in which the business will attempt to resolve any disputes between it and the neighbors in an attempt to address concerns of neighbors to avoid those issues from becoming a problem that the neighbors ask the city to resolve.

## Lighting Plan

**I am finalizing the MMB business application and am unclear what the city is requesting in terms of the exterior lighting plan for our dispensary. Can you give a detailed description of what is required with this application?**

[Section 6-14-5\(a\)\(8\)](#), B.R.C. 1981 requires a "lighting plan showing the lighting outside of the medical marijuana business for security purposes and compliance with applicable City requirements." The plan must comply with [Section 9-9-16](#), "Lighting, Outdoor," B.R.C. 1981 and provide safety to patients and the public outside of the premises.

The specifics of the plan will depend on the specifics of the outside of the business location, including the placement of walls, sidewalks, streets, landscaping, traveling path for vehicles and pedestrians, and other items that may block visibility or otherwise impact safety.