

## **Business Operations**

The city has received an emailed comment notification that several medical marijuana dispensaries are within 1,000 feet of a school. There appears to be four dispensaries that are within 1,000 feet of Mapleton Montessori School which is located at 3121 29th St. The dispensaries are located on 28th Street near Valmont Road as well as between 28th/30th South of Iris Avenue. There is also a dispensary located in the Table Mesa Shopping Center within 1,000 feet of Community Montessori School located at 805 Gillaspie Dr.

State law allows city council to amend the state required 1,000 foot distance between schools and Medical Marijuana Businesses (MMB) through amendment in the Boulder Revised Code (BRC). City Council has amended the 1,000 foot distance measurement to 500 feet within the city limits of the City of Boulder between licensed MMBs and licensed day cares and schools as described in the BRC. In addition, if MMB businesses were in operation before December 1, 2009, existing MMB locations may be "grandfathered in" within 500 feet of a school or day care, but new businesses would not be able to locate either at that location or within the applicable 500 foot area.

The related local law is found in BRC Chapter 6-14-7 (f) quoted here:

(f) Separation From Schools, Day Care Centers or Other Medical Marijuana Uses. No medical marijuana business license shall be issued for the following locations:

(1) Within 500 feet of any elementary, junior high, middle or high school or state licensed day care center. Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or day care center. This restriction shall not apply to any applicant who applied for a sales and use tax license for a medical marijuana business prior to November 5, 2009, such license was approved and the business has continuously operated such business since December 1, 2009. In the discretion of the city manager, a medical marijuana business license may be issued for a location where either the medical marijuana business or the school or licensed day care center is located within a parcel with several different users, and:

(A) the distance between the applicant's property and the property of the school or day care center is less than 700 feet, and

(B) the distance between the buildings in which the medical marijuana business and the school or licensed day care are located is more than 750 feet apart, and

(C) the city manager finds that the location of parking lots, sidewalks, streets, landscaping and other appurtenances between the medical marijuana business and the school or day care provide practical separation of at least 500 feet between the use and the medical marijuana business.

(2) Within 500 feet of three other medical marijuana businesses, except that this limitation shall not apply in Industrial zones.

(A) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other medical marijuana business.

(B) This restriction shall not apply to any applicant who submits an application for a license for a medical marijuana business prior to September 1, 2010, in any location where the same applicant had obtained a sales and use tax license for the business on or before January 1, 2010, regardless of whether the actual sale or other distribution of medical marijuana had commenced at that location as of January 1, 2010.

(C) To determine the proximity to other medical marijuana businesses and the priority of applications, businesses shall have priority in the following order:

(i) Businesses that are open and operating;

(ii) Businesses whose applications have been approved; and

(iii) Applications for medical marijuana business licenses that have been submitted by the applicant and declared complete by the city.

(iv) No other applications shall be considered "businesses" for this determination.

**Can wine and beer be served in a medical marijuana business in the portion of the business premises that is not included as part of the licensed premises where medical marijuana is allowed?**

No. Serving, providing, or consuming alcoholic beverages of any kind in a medical marijuana business is a violation of [Section 6-14-13\(a\)\(4\)](#), B.R.C. 1981.

**Are Boulder medical marijuana dispensaries allowed to sell seeds?**

Yes. Seeds are within the definition of medical marijuana and can be sold in retail facilities.

**Can clones be sold?**

No, retail is not allowed at a cultivation facility or MIP and no plants are allowed outside of a cultivation facility.

**If a licensee has several locations and a general manager that oversees all operations at all locations, does there need to be a manager at each location?**

Yes. There needs to be an owner or manager on-site at each location during all times a medical marijuana business has persons inside the business [Section 6-14-8\(e\)](#), B.R.C. 1981.

**Is the location of my medical marijuana business "grandfathered" in since it was in operation before the City adopted an ordinance?**

No, see [Section 6-14-3\(a\)](#), B.R.C. 1981.

- No locations for medical marijuana businesses are "grandfathered" except as specifically provided in [Chapter 6-14](#), "Medical Marijuana", B.R.C. 1981.
- All medical marijuana businesses must apply for a medical marijuana business license and meet all of the requirements of [Section 6-14](#) of the Boulder Revised Code and any other applicable code requirements ([Section 6-14-3\(a\)](#), B.R.C. 1981).
- These requirements include compliance with all spacing requirements from schools and day cares and other medical marijuana businesses, appropriate zoning and use categories, and use review approvals.

**What are the advertising regulations in regards to Medical Marijuana images?**

There are no requirements in [Chapter 6-14](#), "Medical Marijuana", B.R.C. 1981. specifically regarding advertising of medical marijuana products and services. However, all businesses must comply with all applicable local and state laws. For instance, the hours advertised must be within the allowable operating hours designated by city law.

There are also local laws concerning signs, lighting, and other land use requirements in [Title 9](#), "Land Use Regulations", B.R.C. 1981.

A resource for assisting new businesses in navigating through the applicable laws is Liz Hanson, Coordinator of the Economic Vitality Office, at (303) 441-3287. More information is on the [Economic Vitality](#) website.

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**Business Location**

**Are there locations where a business license will not be issued for medical marijuana businesses?**

Yes, see the four restricted locations below:

1. \*Within 500 feet of any primary or secondary school or state licensed day care center. Distances will be measured by the city on official maps as the radius from the closest points on the perimeter of the property on which the applicant's building is located to the closest point of the property of the school or day care center.

*\*This restriction does not apply to any applicant who applied for and was granted a business license for a medical marijuana business before Nov. 5, 2009, and was open and has been operating continuously since Dec. 1, 2009.*

2. \*Within 500 feet of three other medical marijuana businesses (this limitation does not apply in Industrial zones.) In order to determine the proximity to other medical marijuana businesses and the priority of applications, businesses will have priority in the following order:
  - a. Businesses that are open and operating,
  - b. Businesses whose applications have been approved, and
  - c. applications for medical marijuana businesses licenses that have been submitted by the applicant and declared complete by the city,
  - d. No other applications shall be considered "businesses for this determination.

*\*This restriction does not apply to any applicant who submitted an application for a license for a medical marijuana business prior to Sept. 1, 2010 in any location where the same applicant had obtained a retail sales tax license for the business on or before Jan. 1, 2010, regardless of whether the actual sale or other distribution of medical marijuana had commenced at that location as of Jan. 1, 2010.*

1. Within a dwelling unit within any zone or within a residential zone district.
2. In any location that is also is a part of the licensed premises of a business holding a liquor license.

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## **Business Subdivision**

### **Can a cultivation facility subdivide its space for lease to another person?**

Only if it follows the city's code requirements for doing so, prior to allowing the subtenant to locate any medical marijuana at the cultivation facility. In order to subdivide a cultivation facility, the licensee would have to file and be approve for a modification of premises with the city to reduce the licensed premises and make way for a new application in the vacated space. The subtenant would then have to apply for, and obtain, its own medical marijuana business license before locating any medical marijuana in the space it intends to sublet and proceeding to operate the subtenant business.

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## **New Businesses**

**The medical marijuana business for which this application is submitted will be a new business not previously in operation. How do I answer the last two questions on the Affirmation of Completion of Application?**

For the entity not operating before August 2, 2010, the correct answer to the last two questions on the Affirmation of Completion is "No." Such a business is required to have a medical marijuana business license issued before operating the business ([Section 6-14-3\(a\)](#), B.R.C. 1981).

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## **Expanding MMB**

### **What is the procedure for obtaining approval from the city to expand the licensed premises of a MMB?**

Because a condition of a medical marijuana business license is to operate in a manner disclosed in the plans submitted with the application, it would be a violation of the license to make any changes to the plans without prior approval by the city. Any changes to any of the plans submitted with an application for a MMB must be submitted to the city for approval, and the applicant must receive approval, prior to the change(s) being made.

- You may use the application form for a new license and identify which items will remain the same and which are proposed to be amended.
- A building permit is required to make any changes to the existing business
- The first phase of the MMB application must be completed before you can apply for a building permit
- The City of Boulder will not provide any local authority approval to state MED until processing, inspection and approval of the amended application is granted by the city.

### **What procedures do I need to follow to expand the space I am currently using for my medical marijuana business?**

If the new space will be:

- Contiguous (next door) to your current space,
- Renovations will be made to join both spaces, and

Then your business will continue under the same FEIN number, same state sales tax number, and same city sales and use tax business license number.

You will need to obtain

- The proper city permits, and
- Obtain approval of an amendment to the square footage of the floor plan submitted with the medical marijuana business application, and any other plans submitted with the application affected by the proposed renovation prior to commencing construction.

NOTE: Please be aware that if the addition of the new square footage results in your premise being too large, too close to a school, or not allowed by other zoning laws, then your addition may result in denial of your MMB license application.

If the new space is:

- Not contiguous,
- Has no renovations to join both spaces,

Then a new sales and use tax license and medical marijuana business license are required for the expansion.

A center and a cultivation facility or MIP are not both permitted uses in the same zone district, so it would be a violation of the applicable zoning laws if your expansion was to mix a center with a cultivation facility or MIP.

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