

TITLE 3  
CHAPTER 1

**BUSINESS LICENSES**

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**3-1-1: PURPOSE:** This Chapter is enacted, except as otherwise specified, to provide revenue for Municipal purposes and to provide for the health, safety and welfare of the citizens of Florence through regulation of businesses, occupations and trade. A business need not be located within the city in order to be subject to the provisions of this Chapter. This Chapter serves the public interest by mandating that business will be carried on in compliance with applicable laws. The business license required by this Chapter shall not be construed to constitute a permit to engage in any activity prohibited by law nor as a waiver of any other regulatory license requirement imposed by the City or by federal, state, or local law. The business license shall not indicate an endorsement of any business or business activity.

**3-1-2: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

APPLICANT	Agent or owner of the named business
AUCTION	The sale, or offer to sell, by public outcry to the highest bidder.
BUSINESS	Any enterprise, establishment, store, shop, activity, profession, or undertaking doing business of any nature within the city, whether conducted directly, indirectly, or cooperatively.
CITY RECORDER	The person so designated by the City Manager to perform the functions described in this Chapter.
LICENSE	The permission granted for the carrying on of a business, profession or occupation within the City limits.
LICENSEE	The business as specified and named by applicant.

MASTER VENDOR LICENSE	A temporary license that is issued to a single responsible party which covers more than one vendor in a single location.
MEDICAL MARIJUANA FACILITY	A medical marijuana dispensary business required to register with Oregon Health Authority under ORS 475.314.
NONPROFIT	An entity organized and operated exclusively for a religious, charitable, humanitarian, or educational purpose and for whom the United States of the State of Oregon has granted exemption from the payment of income tax on that basis.
PEDDLER	A person traveling from place to place, selling and delivering, or providing a service at the same time. Such person uses public pedestrian ways, but does not conduct business in a temporary or permanent structure at a fixed location. This definition does not include the delivery of goods, services, or contracts previously purchased or ordered, nor sales by wholesalers to retailers.
PERSON	All public or private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the City.
PROPER IDENTIFICATION	A document issued by a city, county, state or federal government which bears a photograph and the signature of the person to whom it was issued.
PURCHASE	The buying, exchanging, transferring, collecting, cosigning or otherwise acquiring of articles from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser.
USED MERCHANDISE DEALER	Any person, or employee of any person who, as all or part of a business: <ul style="list-style-type: none"> <li>A) Purchases or sells used articles, including but not limited to, the sale of used metals and jewelry, guns, and electronic equipment.</li> <li>B) Wrecks, dismantles or disassembles a used vehicle and offers for sale the components thereof; or</li> <li>C) Lends money on security of used articles. This does not include a person dealing exclusively in whole automobiles, books, sports trading cards, clothing, furniture, electrical appliances, or farm implements and machinery; a person who purchases or sells used articles for four days or less in a six month period, or a nonprofit corporation or association that sells or otherwise exchanges only donated articles.</li> </ul>
REVOCATION (of business license)	Withdrawal of approval to operate a business.
SOLICITOR	One who travels from place to place, not carrying goods, but taking orders for future deliveries.
SUSPENSION (of business license)	An official order to suspend business operations pending correction or ceasing of certain conditions or practices.
TRANSIENT MERCHANT	A person who at any one time occupies temporarily (including seasonally or intermittently) a fixed location on private property, who uses a temporary or permanent structure or a vehicle, who sells and delivers from stock on hand, in much the same manner as a permanent business would, and who is not a vendor.
VENDOR	A person who occupies a fixed location on public or private property and who sells food, drink, goods, amusements, or games of skill. For the purposes of this chapter, vendor includes only those businesses operating within the confines of a master vendor license.

**3-1-3: APPLICABILITY, GENERAL REQUIREMENTS AND EXEMPTIONS:**

**3-1-3-1: APPLICABILITY:**

- A. No person shall maintain, operate, engage in, conduct, or carry on any business within the city without first having obtained a license for the current year as provided by this chapter.
- B. The agent, or agents, of a nonresident proprietor engaged in any business for which a license is required by this Chapter shall be liable for any failure to comply with the provisions of this Chapter, or for any penalty assessed under this Chapter, to the extent, and with like effect, as if such agent, or agents, were themselves the proprietors or owners of the business.
- C. A person engaged in business in more than one location, or in more than one business licensed under this Chapter, shall make a separate application, and pay a separate license fee for each business or location, except for businesses whose nature is to perform business in multiple locations including those businesses under Classification 2, 4, and 5, as shown in section 3-1-8 or as otherwise provided in this Code. A businesses whose sole operation is to rent more than one dwelling or commercial unit of real property need only obtain one business license.
- D. A person representing himself/herself, or exhibiting any sign or advertisement that he/she, is engaged in a business within the City on which a license fee is levied by this Chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this Chapter.

**3-1-3-2: GENERAL LICENSE REQUIREMENTS:** In addition to any other requirements of this Chapter, each licensee shall:

- A. Conform to all Federal, State, and local laws and regulations, the provisions of this Code, and any rules adopted there under. It shall be unlawful for any person to engage in any such business within the City without first having obtained a license for the current year as provided under this chapter. License fees shall be set by Council resolution.
- B. Be subject to an Oregon Criminal History Check to be performed by the Chief of Police for listed owners and/or managers included on the application form. Such check will not be performed on business agents or employees except for those specified under the provisions of classification 4 shown in Section 3-1-8-4. Information obtained from the Oregon Criminal History Check will be used as the procedure for review of the code provisions of Section 3-1-7-2(A)6.
- C. Notify the City within ten (10) days of any change in material information contained in the application, including but not limited to changes in management, ownership, location, mailing address, business name, and if applicable any specific requirements as indicated by the business classification section as shown in Section 3-1-8.
- D. Licensees shall abide by the provisions set forth in Florence City Code 8-2-4 with regards to commercial activity upon City Streets or other public right-of-way.
- E. A person who is registered by this ordinance to have a business license shall cause the license to be prominently posted in a place available to the public at the location for which the license is issued. If the principle location or office of the business is not located within the City, the business employee, agent, or representative must possess a copy of the license when doing business within the city.

**3-1-3-3: EXEMPTIONS FROM PERMIT REQUIREMENTS:**

- A. Nothing in this Chapter shall be construed to apply to any person transacting and carrying on business within the City which is exempt from a license fee of the City by virtue of the Constitution of the United States, the Constitution of the State of Oregon, or applicable federal or state law.
- B. No person whose income is based solely on a wage or salary shall, for the purpose of this Chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that all license taxes and fees will be borne by the employer.
- C. Any person paying a franchise tax or fee, under City Code now existing, is exempt from the requirements of this Chapter.
- D. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City are exempt from this Chapter.
- E. Pursuant to 3-1-8-6 of this section, applicants who wish to do business only during the Rhododendron Festival are exempt from the application process for businesses in Classification 5 and 7 as prescribed in 3-1-8-5 and 3-1-8-7 of this section. These businesses must follow the application process for businesses in Classification 6 as defined in 3-1-8-6. All other regulations of this chapter apply to all businesses, including Rhododendron Festival merchants.
- F. Businesses whose sole operation shall occur at the Florence Events Center shall be exempt from this Chapter.
- G. All auctions operated by businesses shall obtain a business license as otherwise required by this chapter, with the exception of the following, which shall not be subject to licensing requirements.
  - 1. Estate property sales by executors or administrators of that estate.
  - 2. Property sales by public officials as a part of their official function.
  - 3. Property sold by court order.
  - 4. Property sales by common carriers pursuant to Federal or State laws or public authority.
  - 5. Auction sales under the auspices of the Future Farmers of America, 4 H Club, or a county or district fair.
- H. No person conducting an on-premise sale of used household goods by a person who resides on premises (a yard or garage sale), shall be required to obtain a business license, provided that the sale is conducted no more than four days in any calendar year.
- I. A person conducting a business for twenty (20) or less hours in one calendar year shall be exempt from licensing requirements.
- J. This chapter does not apply to business activities of the City of Florence.

**3-1-4: DISCLAIMERS:**

- A. The levy or collection of a license fee, or issuance of a business license, shall not be construed to be a license or permit by the City to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by Federal, State, or Local Law.
- B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the City.

**3-1-5: APPLICATION:**

- A. Application for a business license, or for renewal of a business license, shall be made to the office of the City Recorder upon forms furnished by the City. Each application shall state:
1. The name of the proposed business.
  2. The description of the trade, shop, business, profession, occupation or calling to be carried on, including indication of classification type.
  3. The complete address(es), email address(es), and telephone number(s) of the principle office of the business.
  4. The complete address, email address, and telephone number of the address at which the business will be conducted, or the address of its Florence office.
  5. The signature of the applicant or agent making application. The applicant shall warrant by his/her signature that all representations made on the application form are the truth to the best of his/her knowledge. Any misrepresentations on the application shall constitute a violation of this ordinance.
  6. Evidence of satisfaction of State registration, bonding or insurance if required, including registration number and expiration date.
  7. The name, contact information, driver's license number or other proper identification, and date of birth, of person of ownership of the business, to be either a person or entity.
  8. The name, contact information, driver's license number or other proper identification, and date of birth, of local owner / manager, should such be different than that of the owner.
  9. Number of Employees, including part-time and full-time classifications.
  10. The City may require proof of bonding or State registration. An applicant shall possess any County or State license required before a City license will be issued.
  11. The City Recorder may require the applicant to supply any additional information necessary to determine under Section 3-1-8 the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.

**3-1-6: LICENSE FEES, RELOCATIONS, TERMS OF LICENSE, FEE EXEMPTIONS, AND DELINQUENCY:**

- A. License Fees. Each application for a business license shall be accompanied by a non-refundable business license application fee and an annual license fee, unless otherwise exempt as provided in Section 3-1-6-E below. Fees shall be set by Council resolution. The business license fee shall be in addition to, and not in lieu of, any other license or permit fee, charge, or tax required under any other Municipal Code section or City Ordinance. Business license fees, as set by Council resolution, may be increased or decreased, at any time by the City Council.
1. Business Application Fee. The business application fee amount shall be charged when a new or expired business license application is processed and shall be limited to recovering the administrative cost of processing the application. Business license application fees may vary by business classification type per the discretion of the Council. The business application fee shall be set from time to time by resolution of the City Council. Persons holding expired business licenses will be charged a new business application fee to reapply.

2. Business License Annual Fee. Persons renewing an existing, non-expired business license shall pay only the business license annual fee, unless otherwise exempt as provided in Section 3-1-6-E below. The business license annual fee shall be determined by resolution of the City Council, such rate being either a flat rate for all businesses, a progressive rate based on number of employees, or varied by business classification type. The annual license fee for any business license issued after July 1 of any calendar year shall be one half (1/2) the annual fee.
  3. Temporary Business License Fee. Businesses in Classifications 5, 6, and 7, or those which elect to receive a temporary license, shall be issued a temporary business license for specified dates, not to exceed six months, and shall pay the temporary business license application fee. The temporary business license application fees shall be set by resolution of the City Council and may be based upon length of operation, dates of operation, classification type, or a progressive rate based on number of employees.
- B. Relocation of an Existing Business. In the event a business relocates in such a way as to necessitate review of applicable zoning ordinances, the licensee shall reapply to the City Recorder and pay the applicable business application fee. The business license annual fee shall be transferable to the new location. The City may issue the license upon finding that the new location meets the requirements of this Code.
  - C. License Term. Except for businesses issued temporary business licenses, a business license issued under this Chapter shall be valid from the date of issuance until the following December 31, after which it shall expire.
  - D. Renewal Notice. Except for businesses issued temporary business licenses, which shall receive no renewal notice, notice of renewal shall be sent by December 1<sup>st</sup> of each preceding year and shall be due in 30 days (by January 1<sup>st</sup> of the current year). Accounts not paid by January 20<sup>th</sup> shall be declared delinquent. The business owner or his agent shall be subject to a penalty under Section 3-1-6-F.
  - E. Fee Exemptions. The following businesses shall be exempted from paying the business application and business license annual fee. Businesses listed in this subsection and doing business within the City must still apply for a business license on the forms provided by the City, and respond to annual renewals to ensure accurate information, but shall be exempt from payment of fees.
    1. A non-profit agency, organization and/or business, as defined in this ordinance.
    2. Persons expressly exempted from paying a City business license fee under any other lawful provision of federal, state, or city law, provided that person claiming the exemption shall show proof of such exemption satisfactory to the City Recorder and/or City Attorney.
    3. Any city, county, state agency, special district, school district, or other government entity.
  - F. Delinquency. Should a business be declared delinquent the City may avail itself of any and all remedies available to collect the fee, including but not limited to referring the delinquency to a collection agency and citing the person for a violation of the Florence Municipal Code. In addition, a delinquency charge of fifty (50) percent of the business license fee may be added to the fee that is otherwise due, or any other fee deemed appropriate by the City Council as set by Council Resolution.

**3-1-7: APPROVAL, TRANSFER OF LICENSE, DENIAL, REVOCATION OR SUSPENSION OF LICENSE:**

**3-1-7-1: APPROVAL OF APPLICATION AND TRANSFER OF LICENSE:**

- A. Upon receipt of a signed and completed application for a business license, the City Recorder shall issue a decision on an application within thirty (30) days of the submission of a complete application form, all requested additional information, and annual license fee, or notify the applicant of the delay.
- B. Upon finding that the applicant has met all the licensing requirements of this Code, the City Recorder will issue a license.
- C. If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which are necessary to protect the public health, safety or welfare, or which are required by this Chapter.
- D. The business license may be transferred to another party in the following circumstances, provided the City has been notified of any material changes to the business as indicated by Section 3-1-3-2 within ten (10) days;
  - 1. The business is sold and/or transferred to a new owner and/or manager OR the business location has changed in such a way as to not necessitate review of applicable zoning ordinances.
  - 2. No other significant change in the nature of the business has occurred.
  - 3. If the existing business license contains no person specific endorsements.
  - 4. If the new owner contacts the City to amend the business license application to accurately reflect the new ownership / management and any other new information.
  - 5. No other transfer or assignment of any license issued under this chapter shall be valid or permitted. Upon a significant change of the nature of the business, a new business license is required.

**3-1-7-2: DENIAL, REVOCATION, OR SUSPENSION OF LICENSE:**

- A. The City Recorder in concurrence of the City Manager and Police Chief, may deny, suspend, or revoke any license issued under this chapter upon finding that:
  - 1. The licensee fails to meet the requirements of, or is doing business in violation of this Chapter.
  - 2. The licensee is in violation, as determined by the applicable governing jurisdiction, of applicable Federal, State, or local requirements and such violation reasonably relates or has a nexus to the licensee's business activities.
  - 3. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license.
  - 4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity.
  - 5. The licensed activity or device would endanger property or the public health or safety.

6. The applicant, owner, or other responsible party has ever been convicted of a felony at any time, or has been convicted of a misdemeanor within the last five (5) years related to fraud, theft, where the elements of such violation of law or statute reasonably relate or have a nexus to the business activity conducted, unless the applicant demonstrates that the offense has no bearing on the applicant's fitness to undertake the licensed activity without endangering property or public health, safety, or welfare.
- B. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension or revocation, the notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 3-1-7-4 of this Chapter.
  - C. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within 15 days, the City Recorder may discontinue the revocation proceedings.
  - D. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.
  - E. A person whose application for any business license has been denied or whose license has been revoked for a total of two times within one year or who has a total of four denials or revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.

**3-1-7-3: SUMMARY SUSPENSION:**

- A. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City may suspend the license for the activity or device.
- B. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 3-1-7-4.
- C. The City may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 3-1-7-4.

**3-1-7-4: APPEAL:** In the event that an applicant, or other responsible party for a license under this Chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within fifteen (15) days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than fifteen (15) days after the filing of notice of appeal. The decision of the Council on such appeal shall be final and conclusive.

**3-1-8: BUSINESS CLASSIFICATIONS AND SPECIFIC REQUIREMENTS:**

**3-1-8-1: CLASSIFICATION 1:** Businesses, non-profit organizations, trades, occupations, and professions dealing in retail sale or trade of merchandise and/or services at a permanent business location.

**3-1-8-2: CLASSIFICATION 2:** Occupations, tradesman or contractors dealing in contractual services or installation of merchandise or materials at, in or on properties not the principal location, or base of operation, of the contractor or installer. State registration is a prerequisite to issuance of a business license under this classification.

**3-1-8-3: CLASSIFICATION 3:** Home Occupations as defined in Title 10, Chapter 1 of the City Code.

- A. Specific Requirements: To ensure applicants of home occupation business licenses meet the definition of home occupation as defined in Title 10, Chapter 1, applicants shall submit information to the City evidencing conformity with the home occupation definition. The City may require submission of evidence on a City form created for such purposes.



**3-1-8-4: CLASSIFICATION 4:** Merchant police, security services, and solicitors.

- A. Specific Requirements: In order to ensure public safety, businesses under Classification 4 shall submit the names, addresses, and dates of birth for each individual intending to take part in the solicitation and/or to be employed in a security capacity. This information will be used to perform a Oregon Criminal History Check to determine the qualifications of the individuals participating in the above activities. The City may require a bond and such insurance as may be deemed proper.

**3-1-8-5: CLASSIFICATION 5:** Peddlers and Transient Merchants

- A. Specific Requirements: Special regulations apply to these businesses due to the nature of the businesses, the business location, or because of traffic control problems. As such, businesses under classification 5 shall adhere to the requirements and submit the additional materials as shown below. Businesses under Classification 5 shall address the following requirements.

1. The business activity shall be held on private property with the property owner's consent, or on public property or right-of-way with consent of the appropriate public agency. Should the business be occupied within the public right-of-way, or upon City owned public property, it shall follow all requirements of other code sections including but not limited to private use of right-of-way (Section 7-5), and noise variances (Section 6-1-2-3-E).
2. The business activity shall not occupy or block the minimum parking spaces required under the City parking requirements in Title 10, Chapter 3 for existing businesses or residences on the subject property.
3. The license specifies the dates and the period of time of business operation. Such business application shall be limited to six months, after which time the business shall reapply.
4. The applicant assumes in writing, the responsibility for taking all necessary precautions in order to adhere to all City, County, and State regulations governing the business activity.
5. Any other conditions the City may deem necessary to impose based upon the particular business activity for the purpose of assuring the health, safety, and welfare of the public.

- B. The applicants for businesses under Classification 5 shall submit the following information.

1. The names and addresses of the owners and operators of the business.
2. The specific dates or time, the exact location including a site plan and/or other drawing, proposed to be used for the conduct of such business.
3. The written consent of the owners and persons in possession of the property where such business will be located.
4. Description of the utility services which will be used at such location, together with the proposed manner and method of disposing any waste materials resulting from operation of such business.
5. A description of the proposed methods of handling vehicular and pedestrian traffic created by such business, together with the proposed on-street and off-street parking provisions for the customers of such businesses.

**3-1-8-6: CLASSIFICATION 6: Rhododendron Festival Peddlers and Transient Merchants**

- A. Specific Requirements: For the purpose of the Rhododendron Festival, the following regulations shall be in effect from 12:00 a.m. on Thursday to 12:00 a.m. on Monday, only during the Rhododendron Festival. The purpose of this section is to exempt Festival merchants from the lengthy application process and provide a lawful means of doing business during the Festival. Businesses not already licensed under the provisions of this Chapter may conduct business during the above specified times under the following restrictions.
1. The applicant must provide written permission from the property owner where they desire to do business.
  2. The applicant must complete a license application and pay the applicable fee.
  3. The applicant must not do business in violation of any Federal, State or Local Law.
  4. The applicant must have any required permits or licenses issued by the County, State, or Federal government.
  5. Businesses not licensed by this subsection 3-1-8-6 or any other provision of this Chapter must immediately complete a business license application and pay all required fees if contacted by the Code Enforcement Officer during the Festival, or they will be required to cease sales immediately.
  6. Businesses that fail to abide by any provision of this subsection 3-1-8-6 shall be subject to the penalties found in FCC 3-1-9 up to and including criminal prosecution.
  7. If an applicant's criminal history is such that it poses an immediate danger to persons or property, the Chief of Police or his/her designee may revoke said persons Rhododendron Festival License and serve notice of such revocation upon applicant.
  8. If an applicant fails to obtain a Rhododendron Festival License at City Hall before the event, during regular business hours, the license fee shall be doubled.

**3-1-8-7: CLASSIFICATION 7: Master Vendors & Vendors**

- A. Specific Requirements: A business activity organizer, property owner, or other responsible party wishing to establish more than one vendor at a single location shall first apply for a master vendor license with the City under the following restrictions.
1. The business activity organizer or responsible party must make application to the City of Florence showing the business activity location including a site plan and/or other drawing, duration, specific dates of operation, and the maximum number of vendors who will conduct business under the master license, both at one time, or throughout its entirety.
  2. The business activity organizer or responsible party must submit a fully completed application for each and all of the participating vendors at least two weeks before they conduct any business under the master license.
  3. The business activity organizer or responsible party shall notify the City of any changes to the list of vendors and/or the list of persons doing business under the master license.
  4. A Master Vendor License may not be used for any vendor of business which shall be open for business in the City for more than 7 consecutive calendar days, nor more than 90 individual days in any calendar year.

**3-1-8-8: CLASSIFICATION 8: Used Merchandise Dealer**

- A. Specific Requirements: In order to ensure public safety, businesses under Classification 8 shall keep a record of the sales for inspection by the Chief of Police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods. Such records, and all articles purchased, shall be available for inspection by the City upon request. A used merchandise dealer shall not:
1. Alter, sell or dispose of any property purchased by the dealer for seven calendar days after the date of purchase.
  2. Sell, exchange, dismantle, alter in any manner, or otherwise dispose of articles purchased by the dealer when prohibited from doing so by the City in writing, and until notified otherwise by the City in writing.
  3. Purchase from a person under the age of 18 years unaccompanied by a parent or guardian.
  4. Purchase from a person who is incapacitated as defined by ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor.
  5. Purchase property which has had its serial number obliterated, defaced, removed or otherwise altered.

**3-1-8-9: CLASSIFICATION 9: Medical Marijuana Facilities**

- A. Specific Requirements: In addition to the requirements under ORS 475.314 and Oregon Health Authority rules, Medical Marijuana Facilities shall comply with the following business license requirements.
1. Compliance with state laws. Facilities shall comply with applicable state laws and state administrative rules.
  2. Compliance with City land use requirements. Facilities shall comply with all applicable land use requirements per FCC Title 10.
  3. Hours of operation. A facility shall not be open for business between 7:00 p.m. and 10:00 a.m. the following day.
  4. Dispensing indoors. A facility shall only dispense marijuana within a building, fully enclosed structure or other approved facility.
  5. Criminal background checks. All employees, owners, and volunteers who handle useable marijuana within a facility must undergo a criminal background check conducted by the City. The background checks must be requested before the employee, owner, or volunteer handles useable marijuana. The criminal background check will be conducted as follows:
    - a. A criminal background check request must be submitted annually for each person. All permits shall expire on December 31<sup>st</sup> of the year issued.
    - b. The request shall contain the person's full name, any aliases, date of birth, driver's license information, and residency address information for the past five years.
    - c. The City will conduct the criminal background check to determine if the person has been convicted of the manufacture or delivery of a Schedule I or Schedule II controlled substance, as defined under state or federal law.

- d. The conviction for the manufacture or delivery of a Schedule I or Schedule II controlled substance, as defined under state or federal law, within the last five years shall disqualify the person from handling useable marijuana at a Medical Marijuana Facility.
    - e. The fee for completion of a criminal background check for each person proposed to handle useable marijuana within a facility shall be set by Council resolution and shall be due on an annual basis.
  - 6. On-site production. No facility shall manufacture or produce on-site any extracts, oils, resin or similar marijuana derivatives.
  - 7. Free products or samples. Facilities shall not offer or provide free marijuana or marijuana infused products.
  - 8. Permanent Nature & Specified Use. All medical marijuana facilities shall be permanent in nature. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. The facility may not be located in a home, residential unit, or be occupied by another use aside from medical marijuana facility. Such business application shall not be allowed to apply for temporary status. Medical Marijuana Facilities shall not qualify for “transient merchant”, “vendor”, “master vendor” or “home occupation” status.
- B. The applicants for businesses under classification 9 shall submit the following information in addition to the information required per FCC 3-1-5.
  - 1. A complete list of all employees, owners, and volunteers who handle useable marijuana within a facility including the following information...
    - a. Full name and any aliases
    - b. Date of birth
    - c. Driver’s license information
    - d. Residency information for the past five (5) years
  - 2. The specific hours of operation for the conduct of such business.
  - 3. Written consent of the owners and persons in possession of the property where such business is located.
- C. Specific Enforcement Provisions. The following enforcement provisions are applicable to Medical Marijuana Facilities, in addition to but not in place of any enforcement provisions set out elsewhere in this Chapter.
  - 1. Compliance inspections. The City may conduct inspections of a facility, including facility records and video surveillance, to determine compliance within this Chapter. Facility owners, employees, and volunteers shall comply with all reasonable requests for information as part of the City’s compliance inspection. City inspectors may seek an administrative search warrant if a facility refuses to cooperate with an inspection.
  - 2. Impact on Criminal Law. Nothing in this Chapter shall be construed as decriminalizing or making lawful in the City any Medical Marijuana Facility or other business involved in the acquisition, possession, manufacture, production, use, sale, distribution, or transportation of marijuana or related paraphernalia that is not lawful under state law.

**3-1-9: VIOLATIONS AND PENALTIES:**

- A. Violation of 3-1-8-6-A-5 of this Chapter shall be considered a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000), or imprisonment not to exceed three hundred sixty five (365) days, or both fine and imprisonment. (Ord. 8, 2008) Proceedings for violation of any other provision of this Chapter shall be civil in nature, and a violation thereof shall be punishable by a fine not to exceed five hundred dollars (\$500).
- B. Inspection and Right of Entry: Whenever they shall have cause to suspect a violation of any provisions of this Code, or when necessary to investigate an application for, or revocation of a license, under any of the procedures prescribed in this Chapter, officials responsible for enforcement or administration of this Chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building or property shall be entered without the consent of the owner or occupant unless under authority of a warrant or other applicable legal authority.
- C. Abatement: Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.
- D. Legal Proceedings by City Attorney: In addition to the enforcement provisions of this Chapter, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this Chapter.

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Sections 3-1-4, 3-1-5, 3-1-6, 3-1-7, 3-1-8, 3-1-10, and 3-1-12 amended in Ord. 14, Series 1985, effective 9-25-85.  
Sections 3-1-5,3-1-8-1, 3-1-8-2,3-1-10 AND 3-1-10-1 amended in Ord. 7, Series 1986 effective 5-13-86.  
Sections 3-1-3, 3-1-5, 3-1-7, and 3-1-11 amended in Ord 4, Series 1988, effective March 9, 1988.  
Sections 3-1-3, 3-1-5 & 3-1-11 amended in Ord 16, Series 1991, effective September 5, 1991.  
Sections 3-1-8-2 & 3-1-9 amended by Ord. 11, Series 2007, effective Sept. 6, 2007  
Sections 3-1-2; 3-1-11 and 3-1-12 amended by Ord 8, Series 2008 effective April 24, 2008  
Sections: Definitions; 3-1-4-G; 3-1-8-2;3-1-10-2-D;and 3-1-11-D-1 amended by Ord. 1, 2009, effective Feb, 25, 2009  
Sections: 3-1-3, 3-1-5 and 3-1-11-C-4 amended or Ord. No. 17, Series 2009 effective Dec. 2, 2009  
Sections: 3-1-2, 3-1-3, 3-1-4, 3-1-5, 3-1-6, 3-1-7, 3-1-8, 3-1-9, 3-1-10, 3-1-11, and 3-1-12 amended in Ord. 18, Series 2010, effective 12-15-10.  
All sections amended by Ord. 1, Series 2014, effective 2-6-14  
Section 3-1-2 amended, and Section 3-1-8-9 added by Ord. 2, series 2015, effective 3-17-15