

DRAFT: ORDINANCE (7-6-2022)

An ordinance generally amending Title 5, Missoula Municipal Code, to incorporate additional provisions within Chapters 5.04 Definitions and 5.08 Licensing Provisions Generally and creation of a new Chapter 5.120 entitled “Cannabis” to incorporate regulations concerning legislative changes in the cannabis industry, reorganize definitions, and update outdated process language.

Be it ordained that Title 5, Chapter 5.04, Section 5.08.010-5.08.030 and Section 5.08.080 be amended as follows, and a new Chapter 5.120 is created.

Chapter 5.04

Sections:

[5.04.010 Generally.](#)
[5.04.015 Repealed.](#)
[5.04.017 Repealed.](#)
[5.04.020 Repealed.](#)
[5.04.025 Repealed.](#)
[5.04.030 Repealed.](#)
[5.04.035 Repealed.](#)
[5.04.040 Repealed.](#)
[5.04.050 Repealed.](#)
[5.04.060 Repealed.](#)
[5.04.065 Repealed.](#)
[5.04.067 Repealed.](#)
[5.04.070 Repealed.](#)
[5.04.080 Repealed.](#)
[5.04.090 Repealed.](#)
[5.04.100 Repealed.](#)
[5.04.110 Repealed.](#)
[5.04.120 Repealed.](#)
[5.04.130 Repealed.](#)
[5.04.135 Repealed.](#)
[5.04.140 Repealed.](#)
[5.04.150 Repealed.](#)
[5.04.155 Repealed.](#)
[5.04.160 Repealed.](#)
[5.04.170 Repealed.](#)
[5.04.180 Repealed.](#)
[5.04.190 Repealed.](#)
[5.04.193 Repealed.](#)
[5.04.195 Repealed.](#)
[5.04.200 Repealed.](#)

5.04.010. Generally. The following words and phrases, when used in this title, shall have the following meanings respectively ascribed to them:

Alcohol. “Alcohol” means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

Alcoholic Beverage. “Alcoholic Beverage” means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

Beer. “Beer” means a malt beverage containing not more than 8.75% of alcohol by volume; or an alcoholic beverage containing not more than 14% alcohol by volume: that is made by the alcoholic

fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients. The term does not include a caffeinated or stimulant-enhanced malt beverage.

Brewery or Micro-Brewery. Brewery or Micro-Brewery means an establishment for the manufacture of malt liquors, such as beer.

Business. "Business" means any and all industries, pursuits, occupations, avocations, professions and businesses that have annual gross receipts of six thousand (\$6,000) dollars or more. Business carried on in a temporary manner by church, civic or fraternal organizations for fund raising are exempt. Business also means any and all rental of office and/or commercial space, wherein office or commercial space rentals occur regardless of the amount of rent derived from the rental. A person who is employed by another shall not be deemed a business. Itinerant vendors, transient vendors, transient merchants and rental of office or commercial space shall be considered a business for purposes of the ordinance codified in this chapter, irrespective of their amount of annual gross receipts

Cannabis. A term used in this code replacing the term "marijuana" used in state statutes and defined by the State of Montana (MCA §16-12-102). The term does not include hemp as defined in state law (MCA § 16-12-102).

Cannabis, Canopy. The total amount of square footage dedicated to live plant production at a registered premise consisting of the area of the floor, platform, or means of support or suspension of the plant.

Cannabis, Cultivation. The growing, harvesting, and curing of cannabis.

Cannabis, Dispensary. A retail facility where cannabis, and cannabis products are sold.

Cannabis, Manufacturing. The converting or compounding of cannabis into cannabis products, cannabis concentrates, or cannabis extracts.

Cannabis, Products. Products containing THC, derived from cannabis, for consumption. The term does not include hemp as defined in State law (MCA § 16-12-102).

Cannabis, recreational. A term used in this code replacing the term "adult-use" used in state statutes and defined by the State of Montana (MCA §16-12-102). E.

Cannabis Cultivation Facility, Indoor. An enclosed area used to grow cannabis plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight as defined by the State of Montana (MCA §16-12-102). The term may include: (i) a greenhouse; (ii) a hoop house; or (iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

City. "City" means the city of Missoula, Missoula County, state of Montana.

Consumer. "Consumer" means one who uses, and by using destroys the value of the article purchased.

Contractor/Developer. "Contractor/Developer" means a person, firm, or corporation that:

in the pursuit of an independent business, offers to undertake, undertakes, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish for another a building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including the installation of carpeting or other floor covering,

the erection of scaffolding or other structures or works, or the installation or repair of roofing or siding; or

in order to do work similar to that described in subsection i above upon the construction contractor's property, employs members of more than one trade on a single job or under a single building permit, except as otherwise provided

Distillery/Micro-Distillery. Distillery or Micro-Distillery means a plant and works where alcoholic drinks are made by distillation that produces 25,000 gallons or less of liquor annually.

Employee. "Employee," for the purposes of this chapter, means any person other than an independent contractor employed by a business including active owners, managers, active partners and agents, also including salespersons and all persons engaged in or associated directly with the management and operation of the business concerned. The intention is to include as "employees" all persons hired by, or working for the business involved, and to include owners and proprietors within the designation. In case of part-time employees, the number of full-time equivalent employees (FTE) will be determined by dividing the total number of hours worked by all part-time employees by two thousand eighty.

Hotel, motel, roominghouse or lodginghouse. "Hotel," "motel," "roominghouse," or "lodginghouse" means any building or buildings containing guest rooms intended to be rented or hired out for sleeping purposes.

Itinerant vendor. "Itinerant vendor" means any person engaged or employed in the business of retailing to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment and there soliciting, selling, or offering to sell, or exhibiting for sale, by sample, by catalogue, or otherwise, or taking orders for future delivery of any goods, wares or merchandise, or for services to be performed in the future.

Mayor. "Mayor" means the mayor of the city.

Nonprofit organization. "Nonprofit organization" means any religious, charitable, social, educational, or civic group which does not distribute profits or dividends to the members thereof and where profit is not their object.

Number of employees. "Number of employees" means the number of employees on the payroll of the business as of May 31st of the year immediately preceding the license year; or, in the case of a new business, the number of employees that it expects to have on the payroll sixty days after the business commences operation.

Offices or Buildings. "Offices or Buildings" shall mean all buildings, structures, rooms, offices, or portions thereof which are situated on a permanent structural foundations and/or permanently connected to City sewer service wherein a business or organization is located and which may be accessible to the public, employees, or members or located in such close proximity to other buildings, structures, rooms, offices, or portions thereof so as to constitute a public threat in the event of a uniform safety code violation.

Person. "Person" includes individuals, partnerships, joint ventures, trustees, trusts, or corporations; or officers, agents, employees, factors, or any kind of personal representative acting on behalf of a business in any capacity.

Produces. "Produces" means the distillation of liquor on the premises of the distillery licensee.

Temporary premises. "Temporary premises" means any hotel, rooming house, storeroom, building, or any part of any building whatsoever, tent, vacant lot, freight station, railroad car, motor truck, trailer or other vehicle or any public or quasi-public place temporarily occupied for business.

Transient Vendor. "Transient Vendor" is any person engaged or employed in the business of selling to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment and soliciting, selling or taking orders for future delivery of any goods, wares or merchandise. The term also includes any person that brings onto temporary premises within the city a stock of goods, wares, or merchandise, notions or other articles of trade, other than farm, orchard, vineyard or garden products, and who or which solicits, sells or offers to sell or exhibits for sale such stock of goods, wares or merchandise, notions or other articles of trade at retail. This definition applies to persons vending food or other merchandise from pushcarts, vehicles, trailers, or other readily mobile sources to customers within the City limits. This all-inclusive definition applies to vendors coming into the City of Missoula to provide any type of service (e.g. painters, contractors, tree trimmers, computer technicians, etc.), to residents within the City limits. Nothing contained in this subsection shall apply to duly constituted city markets when and if operated by authority of the city.

Transient Merchant. "Transient Merchant" means any person that brings into temporary premises into the city any goods, ware, merchandise, notions or other articles of trade, other than farm, orchard, vineyard or garden products and who or which solicits, sells or offers to sell or exhibits for sale such stock of goods, wares, merchandise, notions or other articles of trade at wholesale A transient merchant can operate out of temporary premises for a period of ninety (90) calendar days in any 12 month period.

Wine. "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

Winery. "Winery" means an establishment at which wine is produced.

Year. "Year," for general city business license purposes, means a period of time of twelve months commencing each year on June 1 and ending the last day of May of the next year. For contractors, "year" means a period of time of twelve months commencing each year on March 1st and ending on the last day of February of the next year, and for Rental Business Licenses, means a period of time of twelve months commencing each April 1st and ending on the last day of March.

5.04.015 Alcohol. (Repealed) (Codifier's note: In 2022, this section was recodified in Section 5.04.010)

5.04.017 Alcoholic Beverage. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.020 Repealed.

5.04.025 Beer. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.030 Repealed.

5.04.035 Brewery or Micro-Brewery. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.040 Business. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.050 City. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.060 Consumer. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.065 Contractor/Developer. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.067 Distillery/Micro-Distillery. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010.)

5.04.070 Employee. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.080 Hotel, motel, roominghouse or lodginghouse. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.090 Itinerant vendor. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.100 Mayor. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.110 Nonprofit organization. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.120 Number of employees. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.130 Repealed.

5.04.135 Offices or Buildings. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.140 Repealed.

5.04.150 Person. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.155 Produces. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010.

5.04.160 Temporary premises. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010.)

5.04.170 Repealed.

5.04.180 Transient Vendor. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.190 Transient Merchant. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.193 Wine. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.195 Winery. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

5.04.200 Year. (Repealed) (Codifier's note: In 2022, this section was recodified as Section 5.04.010)

Chapter 5.08 Licensing Provisions Generally

5.08.010 License--Required. For the protection and general welfare of the inhabitants of the city, every business conducted within the city comes within the police power of the city, and no person shall engage in business without first obtaining a license unless it is a nonprofit organization or a business or professional exempted by state law. The charge for such a license shall be as fixed in Section 5.08.030 unless otherwise provided in this code. Money received from licenses shall be used to defray the expense of issuing the licenses and the inspection, regulation and control of business within the city. This licensing requirement is intended to apply to all business entities conducting business by sale of their service or product at fairs, including carnivals at the county fair, display shows, and festivals conducted within the city unless the entity is otherwise expressly excluded in this chapter from this requirement. Any business licensed at another business location within the city is not required to obtain an additional business license for conducting their business at a fair, display show or festival. A city business license is not required for bazaars, farmers markets, or arts and crafts sales conducted and sponsored solely by a nonprofit entity that has been established as a nonprofit entity as that term is defined in Chapter 5.04, except that carnivals at the Missoula County Fairgrounds or elsewhere within the city are not to be exempt from city business licensing and carnivals at the Missoula County Fairgrounds or elsewhere within the city shall acquire a city business license.

Sidewalk cafés with dining as well as consumption of alcohol on a public sidewalk in conjunction with sidewalk café dining are subject to the provisions of Chapter 12.18 Missoula Municipal Code.

5.08.020. License-Application-Issuance procedure

A. The City shall be charged with the collection of all business license fees as adopted by City Council. The City shall provide application forms and licenses in connection with the issuance of licenses. The City application form must contain the following information:

1. General Business License.
 - a. Name, permanent address, business, home, and emergency phone numbers of the applicant
 - b. Full business name
 - c. Building Address
 - d. Previous use of space to be occupied
 - e. Amount of square footage in the building or suite to be used for the business
 - f. Number of employees including owners and managers, full-time and part-time employees
 - g. A brief description of the nature of the business
 - h. If an agent or representative, the name and address and phone number of the principal
 - i. The endorsement of the city zoning officer showing the business location sought to be licensed does not violate any city zoning provision
 - j. Other information city laws and procedures require.

2. Office Space, Retail; Wholesale or Warehouse Space.

- a. Name or rental agency, manager, or owner
- b. Name of building, if applicable
- c. The address of the building
- d. The business, home, and emergency phone number of the applicant
- e. Amount of square footage in the building
- f. The endorsement of the city zoning officer showing the business location sought to the licensed does not violate any city zoning provision
- g. Other information city laws and procedures require

3. Cannabis Business License

- a. Name, permanent address, business, home, and emergency phone numbers of the applicant
- b. Name or rental agency, manager, or owner
- c. Full business name
- d. Address of building
- e. Previous use of space to be occupied
- f. Number of employees including owners and managers, full and part-time employees
- g. Amount of square footage in the building or suite to be used for the business
- h. A brief description of the nature of the business, including intent to manufacture cannabis products, cultivate, dispense, transport, test, or a combination of the above
- i. If cannabis cultivation, canopy area size
- j. The endorsement of the City Zoning officer showing the business location sought to be licensed does not violate any city zoning provision
- k. Other information city laws and procedures require including compliance with Chapter 5.120 of this Title.

B. The City shall issue a license upon presentation of a properly completed application together with the appropriate license fee, unless upon review or inspection when inspection occurs by the local health officer, sanitary inspector, fire inspector, zoning officer, building inspector, or police officer indicates a violation of any city ordinance or code existing at the place of business sought to be licensed; in which case such inspector or officer shall submit a written description of the violation, specifying the steps necessary to qualify the premises for a license, a copy of which shall be furnished to the applicant. Inspections of existing single family residential dwelling units shall be performed on a complaint driven basis or at a time of new or remodeled construction nor change of type of land use.

5.08.030 License-Fees-Schedule The City Council shall establish and amend fees relating to business licensing by resolution after conducting a public hearing for the following types of businesses:

A. General Category, Cannabis, Contractor and Liquor Sales Businesses--The fee schedule for a new business, a business license renewal or any business that is changing locations is based on the number of full time equivalent (FTE) employees subject to a minimum and maximum fee for each business type.

5.08.080 License—Contents. Each license issued under the provisions of this chapter shall state upon its face the following:

- A. General Business License
 - 1. Name of the licensee and any other name under which the business is to be carried on
 - 2. Number of employees as defined in Chapter 5.04
 - 3. The address of the business
 - 4. The amount of the license fee
 - 5. The date of issuance and the date of expiration
- B. Office Space, Retail, Whole or Warehouse Space License
 - 1. Name of the licensee and any other name under which the business is to be carried on
 - 2. Address of building
 - 3. The amount of the license fee
 - 4. The date of issuance and the date of expiration
 - 5. Amount of square footage in building
- C. Cannabis Business License
 - 1. Name of the licensee and any other name under which the business is to be carried on
 - 2. Number of employees as defined in Chapter 5.04.
 - 3. The address of the business
 - 4. The amount of the license fee
 - 5. The date of issuance and the date of expiration



Chapter 5.120 Cannabis

Sections:

5.120.010 Applicability

5.120.020 Air Quality Mitigation

5.120.010 Applicability

These regulations apply to any cannabis cultivation or cannabis manufacturing facilities seeking a business license under Chapter 5.08 (medical or recreational), new or existing unless specifically exempted.

5.120.020 Air Quality Mitigation

Cannabis cultivation and manufacturing may produce nuisance odors which can spread into public spaces. To mitigate this impact, in order to be eligible to receive a business license under Chapter 5.08, cannabis cultivation, cannabis manufacturing facilities, or a combination of the two shall install and maintain carbon filters. The filters and associated fan shall be sized and installed according to the manufacturer recommendations and shall circulate air equal to the volume of the room used for cultivating or manufacturing no less than once per every 5 minutes.

To calculate the requirements for filter and fan size, divide the volume of the room used for cultivating or manufacturing (length x width x height) by the exchange rate (5 minutes). The resulting value will be the cubic feet per minute (cfm) requirements corresponding to the fan and filter specifications. The total cfm

requirements can be split across multiple filters. Some flexibility may be required depending on the layout of the room used for cultivating or manufacturing, and the ducting associated with the fan and filter.

Effective date. The provisions of this ordinance shall be effective in 30 days after adoption.

Severability. If any selection, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the _____ day of _____, 2022, by a vote of _____ ayes, _____; _____ Nays, __; _____ Abstain, _____; and _____ Absent, _____

Second and final reading and on the _____ day of _____, 2022, by a vote of __ ayes, _____; __ Nays, _____; _____ Abstain, _____; and __ Absent, _____

ATTEST:

APPROVED:

Martha L. Rehbein
City Clerk

John Engen
Mayor

(SEAL)

