Business Retention & Development Committee

Monday, February 4, 2019
8:00 AM – 10:00 AM
Library Meeting Room
951 Spruce Street
(entry on the north side of building)

I. Call to Order
II. Roll Call
III. Approval of January 15, 2018 Minutes
IV. Approval of Agenda
V. Public Comments on Items Not on the Agenda
VI. Business Matters of Committee
   1. Proposed Changes to Marijuana Regulations
   2. Discussion of 2019 BRaD Topics or Initiatives
   3. May Business Forum Discussion
VII. Council Liaison Update
VIII. Retention Visits
IX. ED Report
X. Reports from committee members –
XI. Potential Discussion Items for Next Meeting: March 4, 2019
XII. Adjourn
LOUISVILLE ECONOMIC MISSION & GOALS

Provide guidance to the City Council on policies that foster a vibrant and thriving business community.

The goal is to ensure long-term revenue through the creation and promotion of a business-friendly climate, while maintaining a high quality of life for residents and workers.

Sustainable Revenue
- Diversify revenue sources
- Methodical long-term planning
- A culture of adaptability and responsiveness

Business Friendly
- Healthy Communication
- Efficient processes and decision making
- Supportive of existing business
- Proactively market and communicate to new biz

Quality of Life
- Create environment for high wage jobs
- Continue to protect, invest and market our amenities
- Continue to protect and invest in our community
I. CALL TO ORDER – The meeting was called to order by Chair Oberholzer at 8:00 AM in the Library Meeting Room at the Louisville Public Library, 951 Spruce Street, Louisville, Colorado 80027.

II. ROLL CALL – The following members were present:

Committee Members Present:
Shelley Angell
Steve Erickson
Mark Oberholzer
Scott Reichenberg
Todd Budin

Absent Committee Members: Nicole Mansour

Staff Present: Aaron DeJong, Economic Development Director

Others Present: Jim Tienken, Mike Deborski

MEETING WAS CALLED TO ORDER BY COMMITTEE CHAIR OBERHOLZER

III. APPROVAL OF JANUARY 7, 2019 MINUTES – Approved.

IV. APPROVAL OF AGENDA – Approved.

V. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA: None.

VI. BUSINESS MATTERS OF THE COMMITTEE:
1. **Review City Council 2019 Goals / Topics List**: The Committee reviewed the Draft 2019 City Council Work Plan – Recommended by Staff and provided the following direction / comments to Aaron DeJong to relay to the Council at its Study Session January 15:

- **Program (Community Design) / Issue (Height Calculations) – BRaD Position (High Priority).** BRaD recommended Council pursue this issue to reduce confusion / increase land use applicant certainty.
- **Program (Economic Prosperity) / Issue (McCaslin Redevelopment Study – BRaD Position (High Priority).** BRaD recommended Council move forward with the recommendations of the McCaslin Redevelopment Study, including Council consideration of appropriate mixed use residential to leverage the McCaslin area access to the US 36 Bus Rapid Transit corridor.
- **Program (Economic Prosperity) / Issue (Conoco Phillips Property Redevelopment) – BRaD Position (High Priority).** BRaD recommended that Council include the Conoco Phillips Redevelopment as a specific 2019 work plan and that Council entertain redevelopment proposals that include a mix of zoning uses that leverage the property’s adjacency to the US 36 transportation corridor.
- **Program (Economic Prosperity) / Issue (BAP Policies) – BRaD Position (High Priority).** BRaD recommended that Council continue the Business Assistance Program, with updates / process modifications to facilitate transparency and utilization of the program consistent with City of Louisville economic goals.
- **Program (Economic Prosperity) / Issue (Downtown Parking) – BRaD Position (High Priority).** BRaD recommended that Council take affirmative action to move forward with parking improvements for Old Town Louisville, including active steps toward construction of a downtown parking facility.
- **Request inclusion of a Concept/Sketch plan review process as a discussion item in the 2019 Council workplan.**

The Committee requested that City Staff provide / include the following for future BRaD meetings:

Include with the BRaD Committee packet an agenda item allowing the Council liaisons to update the Committee of coming City Council goals / topics / action items under consideration by Council

2. **Discussion of 2019 BRaD Topics or Initiatives.** The Committee deferred discussion of 2019 BRaD Topics or Initiatives to the February meeting.

VII. **REPORTS FROM COMMITTEE MEMBERS.** None.

VIII. **POTENTIAL DISCUSSION ITEMS FOR NEXT MEETING.** The Committee identified the following topics for potential discussion at the meeting to be held on February 4, 2019:
Business Retention and Development Committee
Meeting Minutes
January 15, 2019
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- Continue discussion / identification of 2019 BRaD Initiatives
- Identify May Business Forum Venue / Topics
- Marijuana Regulations discussion

IX. **ADJOURN** – The meeting adjourned at 9:00 am.
SUBJECT: PROPOSED MODIFICATIONS TO LOUISVILLE MUNICIPAL CODE CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES

DATE: FEBRUARY 4, 2019

PRESENTED BY: AARON DEJONG, ECONOMIC DEVELOPMENT

SUMMARY:
Rob Zuccaro, the City’s Planning Director, will be in attendance to highlight the proposed changes to the City’s marijuana ordinance revision. Attached is the staff communication from the January 8, 2019 City Council meeting. To see the full agenda item, below is the link to the January 8, 2019 agenda packet.

http://www.louisvilleco.gov/Home/ShowDocument?id=22071

RECOMMENDATION:
This item is for discussion purposes. City Council will be discussing the regulations at their February 5, 2019 meeting. Should the BRaD Committee wish to provide a recommendation, direction will need to be give regarding the desired recommendation.

ATTACHMENTS:
1) January 8, 2019 Staff Memo for 1st reading of the Marijuana Ordinance
SUBJECT: ORDINANCE NO. 1769, SERIES 2019 – AN ORDINANCE AMENDING TITLES 5 AND 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES – 1ST READING, SET PUBLIC HEARING 2/5/19

DATE: JANUARY 8, 2019

PRESENTED BY: ROB ZUCCARO, PLANNING & BUILDING SAFETY DIRECTOR
Meredith Muth, City Clerk
Megan Davis, Deputy City Manager

SUMMARY:
Ordinance 1769, Series 2019 includes several amendments to Titles 5 and 17 of the Municipal Code related to medical and retail marijuana businesses (see Attachment 1). The following is a summary of the primary amendments included in the ordinance:

- Eliminates the limit of four total retail marijuana stores in the City.
- Revises the spacing requirements between facilities. Currently there is a 1,320-foot spacing requirement between medical marijuana stores. There is no spacing requirement for retail marijuana stores. The ordinance includes a 1,500-foot spacing requirement for both retail and medical marijuana stores.
- Decreases the buffer requirement between a marijuana store and a public or private elementary, middle, junior high or high school from 1,320 to 500 feet.
- Eliminates the buffer requirement between a marijuana store and a public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential childcare facility.
- Increases the allowed area of a medical and retail marijuana store (or combined medical/retail store) up to 5,000 square feet. The current municipal code limits medical stores to 1,800 square feet, limits retail stores to 2,000 square feet and limits a combined medical/retail store to 3,800 square feet.
- Allows medical marijuana stores as a use by right in the Community Commercial (C-C) zone district (Downtown excluded), in addition to the current allowance in Commercial Business (C-B). This matches the current allowance for retail marijuana businesses.
- Allows medical marijuana testing facilities as a use by right in the Industrial (I) zone district and as a special review use in the Commercial Business (C-B), Business Office (B-O) and Administrative Office (A-O) zone districts. This matches the current allowance for retail marijuana testing facilities.
- Allows medical marijuana manufacturing (including infused products) as a use by right in the I zone district, in addition to the current allowance in the C-B zone district.

- Allows retail marijuana manufacturing (including infused products) in the I and C-B zone districts. Currently, the municipal code does not allow retail marijuana manufacturing in any zone district while allowing medical manufacturing in the C-B zone district. Allowing retail manufacturing in the I and C-B zone districts matches the current proposal for medical marijuana manufacturing.

- Allows medical and retail marijuana cultivation as a use by right in the I zone district. Currently, the municipal codes prohibits cultivation in all zone districts.

- Requires verification from an industrial hygienist that infused products manufacturing meets minimum health code requirements.

- Requires ventilation systems for cultivation, manufacturing and testing so that no odors leave the premises (building).

- Allows medical marijuana stores and testing in the Planning Community Zone District (PCZD) commercial and office areas, as long as mixed residential is not included on the same lot as the proposed marijuana business. Allowing medical sales matches the current allowance for retail marijuana businesses.

BACKGROUND:
The City adopted medical marijuana regulations in 2011 by Ordinance 1590-2011 and Ordinance 1591-2011 (see Attachment 2 for City Council Packet and Minutes) and retail marijuana regulations in 2013 by Ordinance 1649-2013 and Ordinance 1650-2013 (see Attachment 3 for City Council Packet and Minutes). The ordinances allowed certain marijuana businesses consistent with State Amendments 20 and 64, which legalized medical and retail marijuana businesses under State Law. In 2014, the City updated its code to prohibit marijuana clubs by Ordinance 1667-2014 (see Attachment 4 for City Council Packet and Minutes).

The City’s regulations limit size and location of each business type and allows medical sales, testing and production and retail sales in the C-B zone district and medical and retail testing as a special review use in several other office and business zone districts. The City does not currently allow cultivation in any zone district. The City has issued licenses for one retail business and one combined medical and retail business, both located at Colony Square shopping center, southwest of McCaslin Blvd. and Dillon Rd. An applicant recently submitted for a third retail license at 972 Dillon Road, which is currently under review. The City has not issued any licenses for manufacturing or testing facilities.
The following is a summary of the main regulations contained in the current code:

- Requires a 1,320-foot buffer between a marijuana store and a public or private preschool, elementary, middle, junior high, or high school; a public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential childcare facility.
- Requires 1,320-foot spacing between medical stores (there is no spacing requirement for retail stores).
- Prohibits medical and retail businesses in Downtown.
- Limits size of medical stores to 1,800 square feet, retail stores to 2,000 square feet, and shared retail/medical stores to 3,800 square feet.
- Limits hours of operation of medical and retail stores to 8 am – 10 pm.
- Limits the language and design of signage.
- Limits the number of retail stores allowed in the City to four.

City Council Discussions 2018
The City Council included a review of the City’s current marijuana regulations on its 2018 work plan. Council held discussions on February 27, 2018, April 17, 2018 and November 5, 2018 (see Attachments 5-7) and provided the following direction to staff for drafting an ordinance for review by Planning Commission and City Council:

- Align the medical and retail marijuana requirement with liquor store requirements.
- Align the rules for medical and retail marijuana.
- Continue the ban on sales downtown.
- Maintain the sales hours of 8 am – 10 pm.
- Allow stores (medical, retail, and combined) to be up to 5,000 square feet.
- Allow production and testing for both medical and retail products.
- Align the zoning for production and testing to include industrial areas.
- Remove the four-store limit.
- Reduce the distance from schools to 500 feet from 1,320 feet and only require that setback from primary schools and higher. This removes the distance requirement from daycares, parks, playgrounds, outdoor pools, outdoor education facilities serving children, alcohol and drug treatment centers, and residential childcare facilities.
- Require a distance of 1,500 feet between stores.
- Allow for manufacturing in industrial areas.
- Allow for cultivation in industrial areas.

Planning Commission December 13, 2018 Public Hearing
The Planning Commission held a public hearing on December 13, 2018 to review Ordinance 1769, Series 2019 (see Attachment 8 for draft minutes). The Commission voted six to one to recommend approval with the following conditions:

1. Limit the number of stores to eight.
2. Remove the requirement for 1,500-foot spacing between stores.
3. Maintain the current buffer distance of 1,320 feet and maintain the current buffer requirements between stores and public or private preschools, elementary, middle, junior high, or high school; public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential childcare facility.

4. Require a Special Review Use (SRU) for retail and medical manufacturing in the C-B zone district.

DISCUSSION/ANALYSIS:

**Medical and Retail Marijuana Store Regulations**

Based on direction from City Council to align the marijuana business code with liquor regulations, the proposed ordinance removes the cap on the number of marijuana stores; makes the spacing requirement consistent between medical and retail stores; increases the spacing between stores (1,320 to 1,500 feet); limits buffers to public and private schools grades 1 through 12; and reduces the buffer distance (1,320 to 500 feet). The ordinance also aligns allowed zoning use groups for medical and retail stores. Rationale for regulating marijuana and liquor and marijuana stores the same is that impacts to the community are generally the same. The requirement for spacing of new liquor stores 1,500 feet apart is a relatively new state regulation related to allowing grocery stores to sell liquor. The following table provides a comparison of the City’s current marijuana and liquor regulations.

There are federal regulatory restrictions that the City could consider in determining buffer requirements. The Controlled Substance Act (CSA), 21 USC Sec. 860, makes unlawful for any person to distribute, possess with intent to distribute, or manufacture a controlled substance (including marijuana):

- Within 1,000 feet of:
  - a public or private elementary, vocational, or secondary school
  - a public or private college, junior college, or university,
  - a playground, or housing facility owned by a public housing authority,

- Within 100 feet of:
  - a public or private youth center,
  - public swimming pool, or
  - video arcade facility

The City’s marijuana ordinances state that by accepting a license, the licensee releases the City from claims resulting from arrests or prosecution for a violation of federal or state law and requires licensees to indemnify, defend and hold the City harmless for claims arising out of the operation of the marijuana business. However, the City could consider matching this federal law as a minimum buffer requirement.
## Comparison of Current Marijuana and Liquor Regulations

<table>
<thead>
<tr>
<th></th>
<th>Marijuana Regs</th>
<th>Liquor Regs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Use and Other Regulations</strong></td>
<td>Must be 1,320 feet from any daycare or school. This is set by municipality.</td>
<td>Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.</td>
</tr>
<tr>
<td></td>
<td>New stores may not be within 1,320 feet of another store. This is set by municipality.</td>
<td>New retail stores may not be within 1,500 feet of another retail store. State law.</td>
</tr>
<tr>
<td></td>
<td>No regulations for &quot;undue concentration.&quot;</td>
<td>May deny a license for &quot;undue concentration.&quot;</td>
</tr>
<tr>
<td></td>
<td>Municipality may ban this use in certain areas, i.e. downtown.</td>
<td>Statute doesn’t allow municipality to ban liquor as a use in an area.</td>
</tr>
<tr>
<td></td>
<td>Municipality may set hours of operation.</td>
<td>Hours of operation set by state law.</td>
</tr>
<tr>
<td></td>
<td>Municipality may do a complete ban</td>
<td>Municipality may do a complete ban</td>
</tr>
<tr>
<td></td>
<td>Landlord may choose to not rent to a marijuana use.</td>
<td>Collect local sales tax.</td>
</tr>
<tr>
<td></td>
<td>May impose additional excise tax. Requires TABOR election.</td>
<td>Collect local sales tax.</td>
</tr>
<tr>
<td><strong>Licensing</strong></td>
<td>All license types set by state law.</td>
<td>All license types set by state law.</td>
</tr>
<tr>
<td></td>
<td>Must have a signed lease to apply for a license.</td>
<td>Must have a signed lease to apply for a license.</td>
</tr>
<tr>
<td></td>
<td>Apply first to the state. State then sends license application to the municipality.</td>
<td>Apply first to the municipality. Municipality then sends license application to the state.</td>
</tr>
<tr>
<td></td>
<td>State fees and local fees. Local fees set at the discretion of the municipality.</td>
<td>State fees and local fees. Local fees are limited by the state. (Louisville fees are much lower than the established limit.)</td>
</tr>
<tr>
<td></td>
<td>All employees required to have state issued &quot;red card.&quot; Includes state mandated training for support personnel.</td>
<td>Local training sessions encouraged for all employees, not required.</td>
</tr>
<tr>
<td></td>
<td>Background checks required of all employees (part of &quot;red card&quot; application).</td>
<td>Background checks required of all owners of more than 10% and managers.</td>
</tr>
<tr>
<td></td>
<td>Requires LLA Public Hearing and approval for a license.</td>
<td>Requires LLA Public Hearing and approval for a license.</td>
</tr>
</tbody>
</table>

The following buffer maps demonstrate the current and proposed retail buffers (see Attachments 9 and 10 for full size maps). The first map shows a 1,320-foot buffer between stores and public or private preschools, elementary, middle, junior high, or high school; public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential childcare facility. The second map shows a 500-foot buffer between stores and public or private elementary, middle, junior high, or high school. The map also shows the 1,500-foot buffer from the City’s existing stores. The new regulations expand where marijuana businesses could locate along McCaslin Boulevard, South Boulder Road, 96th Street/Highway 42, and the Conoco Phillips/Health Park properties off 88th St. Although the ordinance removes overall limit of four marijuana businesses, the 1,500-foot spacing requirement between businesses will provide a limit on the total number, and limits any undesirable concentration of stores to a single area of the City.
Buffer Map – Current Code

Buffer Options for Marijuana Regulations
Map 3: 1/4 Mile from Restricted Properties Under Current Code

Buffer Map – Proposed Code

Buffer Options for Marijuana Regulations
500 ft Buffer from 1st Grade & Older
1500 ft Buffer from Existing Stores

1500 ft. buffer from Existing Stores
The following table compares the City’s current marijuana regulations to other local jurisdictions. Of the communities that allow retail and medical marijuana stores, Boulder, Boulder County and Lafayette have a buffer between 500 and 1,000 feet. Lafayette has a limit on the total number of retail stores allowed, while Boulder and Boulder County do not have a limit. Boulder limits retail store size to 3,000 square feet, while Boulder County and Lafayette do not have a size limit. Lafayette also has several categories of buffers, including from residential areas and commercial corridors (see Attachment 11).

### COMPARISON OF MARIJUANA REGULATIONS IN AREA JURISDICTIONS

<table>
<thead>
<tr>
<th>Services</th>
<th>Louisville</th>
<th>Boulder</th>
<th>Boulder County</th>
<th>Lafayette</th>
<th>Broomfield</th>
<th>Superior</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Sales</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Sales</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Product Manufacturing</td>
<td>Not Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Product Manufacturing</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Marijuana Testing Facility</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Marijuana Testing Facility</td>
<td>Not Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Cultivation</td>
<td>Not Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Cultivation</td>
<td>Not Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marijuana Research &amp; Development</td>
<td>Not Allow</td>
<td>Allow</td>
<td>Allow</td>
<td>Allow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance Requirement</td>
<td>1,320 Feet</td>
<td>1,000 Feet</td>
<td>1,000 feet</td>
<td>500 – 1,000 feet</td>
<td>COMPLETE BAN</td>
<td>COMPLETE BAN</td>
</tr>
<tr>
<td>Limit on # of Retail Stores</td>
<td>4</td>
<td>None</td>
<td>None</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Square Footage Restrictions</strong></td>
<td>Medical center is limited to 1,800 sf; retail store is limited to 2,000 sf; shared retail/medical is limited to 3,800 sf.</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>
Downtown Ban on Retail and Medical Stores
The current ordinance draft continues a ban on retail and medical stores in Downtown Louisville. Although the current draft includes a ban, the last Council discussion on November 5th indicated that further consideration could be made on whether the ban should be lifted or partially lifted in some areas of Downtown such as the Pine Street Plaza development (south of Pine Street and east of railroad tracks). The image to the right shows the defined boundaries of Downtown in blue.

Medical and Retail Marijuana Store Regulations Pros and Cons
Pros – Alignment of the regulations with liquor stores provides for a more consistent regulatory framework between the two business types. Opening up more areas of the City to marijuana businesses could lead to additional economic development and sales and use tax collection for the City.

Cons – Reduction in the buffer area and additional marijuana stores could be perceived as affecting the character of the City, including being a “family friendly community” and having a “small town atmosphere” as noted in the Comprehensive Plan vision statement. Reduction of the buffer below the standards for federal controlled substance laws could create issues for marijuana stores.

Testing and Manufacturing Regulations
The current code allows medical manufacturing in certain zone districts but does not allow retail manufacturing. Similarly, the code allows retail testing in certain zone district but does not allow medical testing. The proposed ordinance aligns the allowed zone districts for medical and retail testing and manufacturing and expands these uses into the I zone district. The intent is to treat both medial and retail in the same manner since they operate the same way.

The proposed ordinance also expands both medical and retail manufacturing as a use by right in the I zone district. The current code limits manufacturing to retail and only in the C-B zone district. The majority of the City’s industrially zoned property is in the Colorado Tech Center (CTC), with two other I zoned properties located adjacent to Highway 42. The CTC Owners Association has submitted a letter in opposition to allowing manufacturing in the I zone district (see Attachment 12).
Testing and Manufacturing Regulations Pros and Cons
Pros – There is not a significant difference in testing and manufacturing operations between medical and retail businesses, and therefore, alignment provides for regulations that are more consistent. Expansion of manufacturing into other zone districts opens up more areas of the City to marijuana businesses that could lead to additional economic development and sales and use tax collection for the City.

Cons – Some businesses may not want to locate near to marijuana testing and manufacturing facilities, as they may be concerned with potential negative impacts on their business. This could offset any potential economic benefit from allowing this industry. Although it is not necessary to align city regulations with private covenants, the CTC Owners Association does not support expansion of manufacturing into the I zone district and does not believe their covenants support the use. This mismatch may create confusion for future businesses.

Cultivation Regulations
The proposed ordinance allows indoor cultivation in the Industrial (I) zone district. As previously mentioned, the majority of the City’s industrially zoned property is in the Colorado Tech Center (CTC), with two other I zoned properties located adjacent to Highway 42. Concerns with cultivation typically are that the use produces odors, attracts nuisances, requires higher levels of security, may influence property values, and may influence other businesses from locating nearby. The CTC Owners Association has submitted a letter in opposition to allowing manufacturing in the I zone district (see Attachment 12).

Many jurisdictions that allow cultivation have specific requirements for ventilation and odor control. Most commonly, business owners must submit ventilation plans with a license application and/or with a building permit. The systems must eliminate odors from beyond the property line or outside of the building where the cultivation is taking place. The proposed ordinance requires verification of ventilation systems at the time of licensing and a standard that odors are not detectable outside the premises (building). The following table provides as summary of how jurisdictions address odor regulation.
Odor Regulations by City

<table>
<thead>
<tr>
<th>City</th>
<th>How does the city regulate odor?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fort Collins</td>
<td>Cultivation may not result in emission of odors beyond the property line. Explicit than other codes in restricting “vapors, gas, odors, smoke, dust, heat, or glare”.</td>
</tr>
<tr>
<td>Breckenridge</td>
<td>Requires ventilation system to eliminate odors as detected with a normal sense of smell at the exterior of the premises (building).</td>
</tr>
<tr>
<td>Denver</td>
<td>Regulates marijuana odor through the Air Pollution Control section of its code. The Department of Environmental Health investigates odor complaints, using a device that measures the intensity of an odor, or when five or more residents call in a complaint in a 30-day period.</td>
</tr>
<tr>
<td>Aurora</td>
<td>Requires ventilation system to eliminate odors at the property line.</td>
</tr>
<tr>
<td>Boulder</td>
<td>Requires ventilation to eliminate odors as detected with a normal sense of smell at the exterior of the premises (building).</td>
</tr>
<tr>
<td>Lafayette</td>
<td>Requires ventilation system to eliminate odors as detected with a normal sense of smell at the exterior of the establishment.</td>
</tr>
</tbody>
</table>

Staff contacted several other local jurisdictions that allow cultivation. One of the biggest issues with regulation of odor is the ability to enforce regulations consistently, and the staff time required to do so. The other jurisdictions noted that having adequate staffing levels to provide oversight and investigate potential violations are an ongoing issue. Staff notes that if the City were to allow cultivation there is currently limited staff capacity for enforcement and Louisville does not have the same resources of larger cities to conduct monitoring and enforcement.

Some cities have other limitations on cultivation that Louisville could consider, including limiting the size of a cultivation facility and not allowing stand-alone cultivation facilities. Both Lafayette and Boulder limit the size of industrial buildings allowed for cultivation to 20,000 square feet and 15,000 square feet respectively. This could help ensure that cultivation businesses do not overwhelm a particular industrial district. Ft. Collins only allows cultivation if there is another associated business in the city owned by the cultivation license holder. This helps to balance the number of cultivation operations in the city where there are limited light industrial space available.
The following table summarizes comments and findings related to cultivation from other local jurisdictions:

<table>
<thead>
<tr>
<th>INFORMATION FROM OTHER JURISDICTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boulder</td>
</tr>
<tr>
<td>Boulder County</td>
</tr>
<tr>
<td>Lafayette</td>
</tr>
<tr>
<td>Commerce City</td>
</tr>
<tr>
<td>Longmont Superior Broomfield</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Staffing</td>
</tr>
<tr>
<td>Added additional licensing specialist</td>
</tr>
<tr>
<td>No staff added</td>
</tr>
<tr>
<td>Licensing, background investigations, inspections, patrolling, etc., have been absorbed by existing staff.</td>
</tr>
<tr>
<td>Added part-time police investigator to complete background investigations.</td>
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<tr>
<td></td>
</tr>
<tr>
<td>Complaints</td>
</tr>
<tr>
<td>Odor is most frequent community compliant. Have 7 areas with active odor investigations and required mitigation.</td>
</tr>
<tr>
<td>2 complaints in early 2016 for a property containing multiple marijuana businesses, property annexed by City of Boulder. Since then, no odor complaints. Under County regulations, odor cannot escape the property line.</td>
</tr>
<tr>
<td>One odor violation. The licensee installed new ventilation equipment to mitigate the problem.</td>
</tr>
<tr>
<td>Minor issues with odor at production site, cultivations just coming on line so don’t have information on those.</td>
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<td></td>
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<tr>
<td>Security</td>
</tr>
<tr>
<td>Less frequent issues with security; require all MJ and receipts to be locked overnight in a safe that is affixed to the structure for all license types. Occasionally a licensee will not follow that requirement sometimes resulting in a burglary. Theft from marijuana businesses happen most frequently via employee theft in their experience.</td>
</tr>
<tr>
<td>Some security issues related to an outdoor grow facility and reports of a dumpster diver. Marijuana businesses are required to report criminal activity to the state, but the state did not share this information with the local licensing authority. Updated regulations to require businesses report criminal activity to the local licensing authority.</td>
</tr>
<tr>
<td>None.</td>
</tr>
<tr>
<td>Minor issues with break ins for production sites</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Size Limit</td>
</tr>
<tr>
<td>15,000 Sq. Ft.</td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td>20,000 Sq. Ft.</td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Number of Cultivation Licenses</td>
</tr>
<tr>
<td>53</td>
</tr>
<tr>
<td>30</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td>6</td>
</tr>
</tbody>
</table>
Staff contacted the Fire District to see if they have any concerns about cultivation operations. The District stated that as long as such operations meet all of the current building and fire codes they would not have any specific concerns. It would require some additional work from Fire staff as annual inspections are required. The District noted this specific business can cause different kinds of hazards, but as long as they are aware of the hazard and the location, the Fire District is comfortable with this use.

Cultivation Regulations Pros and Cons
Pros – Other surrounding jurisdictions have successfully allowed cultivation and developed regulations to address potential negative impacts from cultivation, including odor mitigation. Allowing cultivation could lead to additional economic development and excise and use tax collection for the City.

Cons – Based on staff conversations with other cities, it will be difficult to have adequate resources for consistent and practical enforcement of regulations. Some businesses may not want to locate near to marijuana cultivation facilities due to concerns over potential negative impacts. Staff specifically heard concerns from businesses that have federal contracts, and that cultivation may affect their interest in locating next to a business that is in violation of federal law. This could offset any potential economic benefit from allowing this industry. Although it is not necessary to align city regulations with private covenants, the CTC Owners Association does not support expansion of manufacturing into the I zone district and does not believe their covenants support the use. This mismatch may create confusion for future businesses.

Cultivation Excise Tax
Should Council allow cultivation of marijuana in Louisville, they may also consider the application of an excise tax charged on the sale of unprocessed retail marijuana. Businesses would pay excise tax on retail marijuana on the first transfer or sale from the cultivator to the retail marijuana store. This taxation of marijuana requires voter approval. Therefore, the City would need to ask voters to approve the imposition of an excise tax on marijuana cultivation. In most cases, the jurisdiction collects excise tax on the cash value of the transaction to a licensed marijuana establishment within or outside of the City. Most excise taxes are 5%, although there is a range and some are adjustable. At least 44 municipalities in Colorado have voted to approve an excise tax on the cultivation of marijuana (see Attachment 13 for summary table).

Within Boulder County, the City of Boulder, Town of Lyons, and City of Lafayette levy an excise tax, the Towns of Superior and Erie do not permit any marijuana businesses, the City of Longmont does not permit manufacturing or cultivation, and Boulder County and the Town of Nederland permit retail sales and cultivation but do not levy an excise tax. In terms of neighboring jurisdictions, Westminster, Arvada, Broomfield and Golden do not allow marijuana businesses of any kind, while Denver, Commerce City, Wheat Ridge, and Aurora permit marijuana retail, manufacturing and cultivation. Of these
municipalities permitting cultivation, two levy an excise tax (Commerce City and Aurora).

<table>
<thead>
<tr>
<th>Municipality/locality</th>
<th>Cultivation</th>
<th>Excise Tax</th>
<th>Excise Tax amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boulder County</td>
<td>Y</td>
<td>N</td>
<td>-</td>
</tr>
<tr>
<td>Boulder</td>
<td>Y</td>
<td>Y</td>
<td>5%</td>
</tr>
<tr>
<td>Lafayette</td>
<td>Y</td>
<td>Y</td>
<td>5%</td>
</tr>
<tr>
<td>Longmont</td>
<td>N</td>
<td>N</td>
<td>-</td>
</tr>
<tr>
<td>Lyons</td>
<td>Y</td>
<td>Y</td>
<td>10%</td>
</tr>
<tr>
<td>Nederland</td>
<td>Y</td>
<td>N</td>
<td>-</td>
</tr>
</tbody>
</table>

Use of Excise Tax
According to staff discussion with other municipalities within our region, the most common use of excise tax revenues is for costs incurred by the City related to the regulation and use of marijuana, although many municipalities also utilize funds for general purposes. Ballot language for excise tax approvals may be open ended, allowing the municipality to have flexibility in the use of the revenues. (see Attachment 14 for table of all municipal ballot initiatives for marijuana sales and excise taxes and their permitted uses.) However, many municipalities received voter approval to utilize revenues for marijuana enforcement and administration, training, public safety, education and public health programs, substance abuse programs including prevention, treatment, responsible use, and general municipal services.

The Cities of Lafayette and Boulder both utilize a portion of their excise tax for drug education and prevention programs. The City of Boulder dedicates a portion of its marijuana taxes (sales and/or excise) of $250,000 per year to fund a Boulder County grant program called Substance Education and Awareness (SEA), which supports programs that address the following goals:

- Widespread community distribution and awareness of information and programs developed;
- Shift community perceptions of risk associated with substance use, including the impact of drugs, alcohol, recreational marijuana, and abuse of prescription medications on children and youth;
- Prevent/reduce youth abuse of alcohol and recreational drugs including marijuana; and
- Reduce accidental ingestion of marijuana and other drugs

The City of Lafayette voted in an excise tax in 2014 that went into effect in 2015. Lafayette uses the funding generated through the tax to cover any direct or indirect costs incurred by the City related to the regulation of the use of marijuana, and to support local drug education programs, underage consumption, and for other general uses of the City. The Lafayette Police Department utilizes a portion of the funds to provide public safety and law related education to schools and civic groups, and to support training and related materials.
Commerce City recently enacted an excise tax in 2017, although they have allowed marijuana licensing for retail, manufacturing and cultivation since 2015. Commerce City specifically dedicates the excise tax revenues to public safety.

It is difficult to predict if an excise tax would have a positive or negative influence on the location of marijuana cultivation businesses in the City of Louisville. The Cities of Aurora and Boulder both impose an excise tax, and have a relatively high number of licenses (comparatively statewide). The high number may be a result of size restrictions and land use patterns, but the excise tax has not appeared to deter marijuana cultivation development. With 61 licenses, the City of Aurora has generated $3.8 million in sales and excise tax in 2018. The City of Boulder has 94 licenses and generated $5.5 million in sales and excise tax 2017.

**Cultivation Excise Tax Pros and Cons**

Pros – The implementation of an excise tax would generate revenue to support the training, administration, enforcement, public safety and other indirect costs that the City may incur as a result of permitting cultivation within the City. Funding could support public safety training and programs through the Louisville Police Department, or made available to partner agencies who work to provide substance abuse education and programming for adults and youth, for youth recreation and other such preventive programming.

Cons – The implementation of an excise tax would require additional administration and collection of taxes. The tax could deter businesses from locating in Louisville.

**PUBLIC COMMENTS:**

All public comments received prior to publication of the packet are included as Attachment 12.

**FISCAL IMPACT:**

The proposed ordinance requires additional staff time and resources for administration of the regulations through licensing, zoning and building permit application processes. If Council adopts this ordinance, staff recommends a subsequent review of current staffing and fees to ensure the City maintains adequate resources to oversee the new regulations. Staff also recommends that Council consider placing a cultivation excise tax question on the ballot in November to help cover administration, enforcement, public safety and other indirect costs that the City may incur in the oversight of marijuana businesses.

**RECOMMENDATION:**

Staff recommends adoption of Ordinance 1769, Series 2019 on first reading, and send the ordinance out for publication and set the public hearing for February 5, 2019.
ATTACHMENTS:
1. Ordinance No. 1769, Series 2019
2. March 15, 2011 City Council Packet and Minutes
3. December 17, 2013 City Council Packet and Minutes
4. November 3, 2014 City Council Packet and Minutes
5. February 27, 2018 City Council Packet and Minutes
6. April 17, 2018 City Council Packet and Minutes
7. November 5, 2018 City Council Packet and Minutes
9. Buffer Map Current Code
10. Buffer Map Proposed Code
11. Lafayette Buffers
12. Public Comment Letters
13. Excise Tax Summary Table
14. Municipal Ballot Initiative for Sales and Excise Tax Summary
At the January 15, 2019 BRaD meeting, members requested to continue the discussion of topics or initiatives to focus on in 2019. City Council will be holding a special meeting discussion of their 2019 Workplan topics the evening of January 29, 2019.

At the January 14, 2019 BRaD meeting, BRaD members reviewed the initial 2019 Council Workplan list and staff communicated the interest of the Concept/Sketch Plan review process to be part of the 2019 Workplan topics. Council placed the topic on their ‘parking lot’ list for 2020 at their January 29, 2019 meeting.

Below is the continued list of potential discussion topics from the January 7, 2019 meeting.

**From the January 7, 2019 BRaD meeting:**
The following is a list (in no particular order) of staff developed potential topics first prepared in 2017 and updated for 2019. Staff wrote a brief synopsis for each topic to affirm each topic’s intent.

**Continue retention visits**
Meeting with existing businesses provides opportunities to discuss opportunities and challenges of doing business in Louisville. The visits also serve to build working relationships between City representatives and business. Retention Visits are conducted to be an informal, subjective discussion of topics of interest to the business.

The BRaD Committee has continuously been working on this topic.

**Review the City’s Business Assistance Program (BAP) and compare to what other municipalities are doing**
Louisville’s BAP program has been available to encourage business and retail growth for many years. Conduct a review of offered incentives and other communities programs. Also review projects that did not locate in Louisville to learn lessons from lost projects.

The BRaD committee last addressed this topic in December 2017.

**Investigate the costs of doing business in Louisville compared to other cities**
How does the cost of doing business in Louisville compare to neighboring communities. Look specifically at impact Fees, utility fees, utility rates, and taxes.
The BRaD committee last addressed this topic in November 2017.

**Discuss downtown parking challenges**
Economic growth in downtown has continued since 2014. There is very little vacancy, property values continue to increase, and property owners are considering redeveloping their properties to create additional leasable space to accommodate current and future demand. A main component in evaluating redevelopment options is satisfying the off-street parking requirements. Property owners are unsure how the City plans to address parking challenges.

The BRaD committee last addressed this topic in December 2018.

**Review of marketing brochures and discuss ways to promote existing businesses**
Assist Staff in developing new marketing documents to use when interacting with potential new businesses. Review the current documents and make modifications to increase their value and effectiveness. Investigate implementation of a "Buy Local" campaign to encourage residents to shop within the community.

The BRaD Committee encouraged funding for added funding for communications in the 2019-20 budget.

**Continue Louisville Business Forum**
The BRaD Committee has held two business forums in 2018, May and December. The Forum is an opportunity to gather area business leaders and educate, inform, and discuss topics of interest.

**BRaD committee involvement early in policy discussions**
Discuss how the BRaD committee can be incorporated into policy discussions when business issues are a component to the decision making.

The BRaD committee last addressed this topic through the creation of its Economic Strategy in April 2018.

**Industry sector diversification**
Review the primary employer diversification by industry.

The BRaD Committee reviewed this topic at the Louisville Business Forum in May 2018.

**Discuss transportation infrastructure**
The City is underway on developing a Transportation Master Plan for Louisville. The Transportation Master Plan (TMP) is like a blueprint that will guide planning, decision making, and project implementation for all modes of transportation in Louisville over the next 20 years and beyond. The plan will correlate with the City's Comprehensive Plan, Sustainability Plan, and provide recommendations to improve safety, increase accessibility, and provide more mobility options for the community.
Discuss Downtown Retail challenges
Successful traditional downtowns have many components to foster/promote/retain a vibrant retail environment. What is going well to encourage retail vibrancy and what efforts and/or changes could be pursued?

Commercial Design Guidelines and Sign Code Update
Planning Staff is working with consultants to update the city’s commercial design guidelines and Sign Code. Staff will be bringing a draft to the BRaD committee for review and input in 2019.

McCaslin Area Development Study
City Council is expected to give direction regarding next steps through the McCaslin Area Development Study.

Regional Housing Challenge
Boulder County area communities are in the early stages of attacking the housing challenge facing many residents and employees in the region. The Boulder County Regional Housing Consortium was formed to help lead discussions. The generally agreed upon goal is to secure 12% of the housing inventory as permanently affordable to low- and middle-income households by 2035.

This topic was a component of the Louisville Business Forum in December 2018.

RECOMMENDATION:
Staff requests the BRaD committee review the topic list to add/delete/modify topics and prioritize the discussions.
SUBJECT: SPRING 2019 BUSINESS FORUM DISCUSSION

DATE: FEBRUARY 4, 2019

PRESENTED BY: AARON DEJONG, ECONOMIC DEVELOPMENT

SUMMARY:
Staff would like the BRaD committee to begin discussing the Spring 2019 Louisville Business Forum, tentatively identified to be held in May. Components of the event the Committee should provide input on include:

- Identifying specific dates
- Identify topics to consider
- Location for the event
- Structure of the event (Agenda)
SUBJECT: ECONOMIC DEVELOPMENT UPDATE

DATE: FEBRUARY 4, 2019

PRESENTED BY: AARON DEJONG, ECONOMIC DEVELOPMENT

McCaslin Parcel O Redevelopment Study
The City’s consultants, EPS and Trestle Strategy, are continuing work on the McCaslin Area Study. The next step to City Council will be analyses of various development scenarios as to their market viability, fiscal performance, and satisfying the community’s desires for the area. The analysis is currently scheduled to be presented at the City Council’s February 5, 2019 meeting. The report will be included in the City Council’s agenda packet for the meeting.

Conceptual Parking Garage Design
The Louisville Revitalization Commission (LRC) presented their work on a conceptual design for a downtown parking structure to the City Council on January 22, 2019. Desman and DAJ Design presented their work with LRC Commissioner Hank Dalton giving opening remarks. City Council received significant public input against such a facility in downtown. City Council decided not to pursue a parking structure and directed staff to stop working on a downtown parking structure and not allocate any further resources towards its development.

Terraces on Main Proposal
The Terraces on Main redevelopment proposal at 712 Main Street is scheduled to go to City Council on February 18, 2019. The LRC is considering TIF financial assistance to support the project. They are expected to act upon a TIF Rebate Agreement at their February 11, 2019 meeting, and if approved, will be forwarded on to the City Council for their consideration in accordance with the Cooperation Agreement between the two organizations.