City Council

Agenda

Tuesday, January 8, 2019
City Hall
749 Main Street
7:00 PM

Note: The time frames assigned to agenda items are estimates for guidance only. Agenda items may be heard earlier or later than the listed time slot.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Council requests that public comments be limited to 3 minutes. When several people wish to speak on the same position on a given item, Council requests they select a spokesperson to state that position.

5. CONSENT AGENDA

The following items on the City Council Agenda are considered routine by the City Manager and shall be approved, adopted, accepted, etc., by motion of the City Council and roll call vote unless the Mayor or a City Council person specifically requests that such item be considered under "Regular Business." In such an event the item shall be removed from the "Consent Agenda" and Council action taken separately on said item in the order appearing on the Agenda. Those items so approved under the heading "Consent Agenda" will appear in the Council Minutes in their proper order.

A. Approval of Bills
B. Approval of Minutes: December 18, 2018
C. Approval of Designation of Places for Posting Notices for Public Meetings
D. Distribution of 2019 Open Government Pamphlet
E. Approval of Louisville/Lafayette Quiet Zone Project Construction Contract
- **i.** Approval of Resolution No. 1, Series 2019 – A Resolution Approving an Intergovernmental Agreement for Sharing of Costs of Quiet Zone Project Construction Services Between the City of Louisville and the City of Lafayette
- **ii.** Approval of Resolution No. 2, Series 2019 – A Resolution Approving an Agreement Between the City of Louisville and NORAA Concrete Construction Corporation for Construction Services for the Louisville-Lafayette Quiet Zone Project

Citizen Information

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.

F. Resolution No. 3, Series 2019 – A Resolution Approving an Amended and Restated Lease and License Agreement for Fiber Optic Telecommunications Network Between the City of Louisville and the Boulder Valley School District No. RE-2

G. Approval of City Council Special Meetings on January 15 and February 12, 2019

6. COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA (Council general comments are scheduled at the end of the Agenda.)

7. CITY MANAGER'S REPORT

8. REGULAR BUSINESS

7:15 – 8:00 PM

A. DISCUSSION/DIRECTION – HIGHWAY 42 AND SHORT STREET INTERSECTION IMPROVEMENTS

- Staff Presentation
- Public Comments (Please limit to three minutes each)
- Council Questions & Comments
- Action

8:00 – 8:05 PM

B. ORDINANCE NO. 1768, SERIES 2019 – AN ORDINANCE APPROVING THE REZONING OF CERTAIN PROPERTIES FROM THE OFFICE ZONE TO THE AGRICULTURAL AND ADMINISTRATIVE OFFICE ZONE DISTRICTS – 1ST READING, SET PUBLIC HEARING 1/22/19

- City Attorney Introduction
- Action

8:05 – 8:10 PM

C. 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

- City Attorney Introduction
- Action

8:10 – 8:15 PM

D. ORDINANCE NO. 1770, SERIES 2019 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE REGARDING LOT COVERAGE STANDARDS FOR THE RESIDENTIAL ESTATE ZONE DISTRICT – 1ST READING, SET PUBLIC HEARING 2/5/19

- City Attorney Introduction
- Action

8:15 PM **E. EXECUTIVE SESSION**

REAL PROPERTY ACQUISITION AND DISPOSITION (Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

The Mayor is Requesting the City Council Convene an Executive Session for the Purpose of Consideration of Potential Real Property Acquisitions and Dispositions Concerning Property in Louisville

REGULAR BUSINESS ITEMS SUSPENDED

- **Requests for Executive Session**
- **City Clerk Statement**
- **City Attorney Statement of Authority**
- **City Council Action on Motions for Executive Session**
- **Council Convenes Executive Session**
- **Council Reconvene in Open Meeting**

REGULAR BUSINESS ITEMS CONTINUED

F. REPORT – DISCUSSION/DIRECTION – REAL PROPERTY ACQUISITION/DISPOSITION

9. CITY ATTORNEY'S REPORT

10. COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

11. ADJOURNMENT

CASH ACCOUNT: 001000 101001 WARRANT: 121318 12/13/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
1115	COLONIAL INSURANCE	#9711888 DEC 18 EMPLOYEE	201.52
99999	BOULDER CREEK DELO LLC	UTILITY REFUND 1079 LEONA	28.20
99999	TIMOTHY SMITH	UTILITY REFUND 499 MUIRFI	61.91
99999	GEORGE LETEY	UTILITY REFUND 1876 W CHO	564.40
99999	REBECCA ABRAXAS	ADULT PROGRAMMING	75.00
3735	PETTY CASH - BARB KELLEY	PETTY CASH FRONT DESK	356.29
10951	PINNACOL ASSURANCE	WORKERS COMP PREMIUM 1 OF	20,761.89
11094	WESTERN DISPOSAL SERVICES	NOV 18 RESIDENTIAL TRASH	125,536.78
3875	XCEL ENERGY	NOV 18 FLASHERS	5.76
3875	XCEL ENERGY	NOV 18 METERED LIGHTS	482.57
3875	XCEL ENERGY	NOV 18 NON-METERED LIGHTS	48,461.95
	11 INVOICES	WARRANT TOTAL	196,536.27

CASH ACCOUNT: 001000 101001 WARRANT: 122018 12/20/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
1033	COAL CREEK COLLISION CENTER	HAIL DAMAGE REPAIR GC TRU	4,511.69
11298	DELTA DENTAL OF COLORADO	#007562-0000 JAN 19 EMPLO	14,096.50
5255	FAMILY SUPPORT REGISTRY	Payroll Run 1 - Warrant 1	544.18
6455	KAISER PERMANENTE	05920-01-16 JAN 19 EMPLOY	148,853.99
11524	KATHLEEN HIX	HR PLANNING SESSION MEALS	50.36
9750	LEGALSHIELD	#22554 DEC 18 EMPLOYEE PR	335.90
13703	MCDONALD FARMS ENTERPRISES INC	Sludge Hauling Services	780.00
13703	MCDONALD FARMS ENTERPRISES INC	Sludge Hauling Services	1,815.00
99999	KERRY KRAMER	COMPUTER LOAN	1,529.00
14655	PREMIER MEMBERS CREDIT UNION	Payroll Run 1 - Warrant 1	356.89
11345	SAGE AND SAVORY CATERING	DAVE FREEMAN RETIREMENT	605.00
11345	SAGE AND SAVORY CATERING	LEGISLATIVE BREAKFAST & C	402.00
8442	VISION SERVICE PLAN	12 059727 0001 JAN 19 EMP	3,020.86
11094	WESTERN DISPOSAL SERVICES	NOV 18 CITY TRASH SERVICE	3,115.40
	14 INVOICES	WARRANT TOTAL	180,016.77

CASH ACCOUNT: 001000 101001 WARRANT: 122718 12/27/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
14164	ALPINE BANK	#5300177601 SOLAR PANEL L	5,429.18
14164	ALPINE BANK	#5300089001 SOLAR PANEL L	3,986.70
14697	ISAIAS HUIZAR	EXPENSE REPORT 11/26-12/0	203.29
14697	ISAIAS HUIZAR	EXPENSE REPORT 12/8-12/20	192.93
7735	LINCOLN FINANCIAL GROUP	000010008470 JAN 19 LTD P	3,660.01
7735	LINCOLN FINANCIAL GROUP	000010008469 JAN 19 LIFE/	7,013.60
99999	BOULDER CREEK DELO LLC	UTILITY REFUND 1079 LEONA	25.00
99999	HEATHER KEATING	EXPENSE REPORT 11/21-12/0	54.50
3875	XCEL ENERGY	NOV 18 GROUP ENERGY	59,257.96
	9 INVOICES	WARRANT TOTAL	79,823.17

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
14578	5280 DIGITAL INC	EQUIPMENT REPAIR LIB	1,876.00
13547	A G WASSENAAR INC	2018 Geotechnical Service	3,532.50
14121	ACUSHNET COMPANY	Resale Merchandise	358.24
12890	ADAMSON POLICE PRODUCTS	BOOTS & MAGAZINE CASE CHI	142.39
1006	ALL CURRENT ELECTRIC INC	Building Inspection Consu	9,094.30
1006	ALL CURRENT ELECTRIC INC	RAPTOR CAMERA BREAKER OS	95.00
12150	ANIMAL & PEST CONTROL SPECIALI	Prairie Dog PERC on CTC a	4,050.00
13818	ARROWHEAD AWARDS INC	MAGNETIC NAME BADGE IT	17.00
13818	ARROWHEAD AWARDS INC	NAME BADGE RITCHIE	17.00
500	BAKER AND TAYLOR	ADULT BOOKS AND MEDIA	194.64
500	BAKER AND TAYLOR	ADULT BOOKS AND MEDIA	21.99
500	BAKER AND TAYLOR	ADULT BOOKS AND MEDIA	32.99
1083	BERG HILL GREENLEAF & RUSCITTI	COMCAST SALES/USE TAX	375.00
640	BOULDER COUNTY	PRINTING PD	9.03
640	BOULDER COUNTY	BSO TURKEY TROT HOURS	504.00
248	CDW GOVERNMENT	UPS REPLACEMENT WTP	88.00
248	CDW GOVERNMENT	LAPTOP DOCK GC	286.00
248	CDW GOVERNMENT	MONITOR REPLACEMENT BODIN	313.20
248	CDW GOVERNMENT	MONITOR REPLACEMENT KELLE	155.00
248	CDW GOVERNMENT	Replacement Computers CCG	2,532.09
248	CDW GOVERNMENT	Replacement Computers Ext	116.13
935	CENTENNIAL PRINTING CO	BUSINESS CARDS PLANNING	62.00
935	CENTENNIAL PRINTING CO	BUSINESS CARDS IT	42.00
935	CENTENNIAL PRINTING CO	SECURITY WINDOW ENVELOPES	675.00
935	CENTENNIAL PRINTING CO	BUSINESS CARDS HARPER	42.00
935	CENTENNIAL PRINTING CO	BUSINESS CARDS FM	84.00
14592	CF LESSEE LOB	CEC SOLAR LEASE #1133	4,421.29
1005	CHEMATOX LABORATORY INC	BLOOD ALCOHOL TESTS	371.00
1005	CHEMATOX LABORATORY INC	DRUG SCREENS	378.00
14093	CHRIS CAKES OF COLORADO	PANCAKES WITH SANTA	1,000.00
4785	CINTAS CORPORATION #66	UNIFORMS WTP	651.04
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WWTP	46.39
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WWTP	46.39
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WWTP	46.39
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WWTP	46.39

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WWTP	46.39
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WTP	179.95
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WTP	179.95
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WTP	179.95
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WTP	179.95
4785	CINTAS CORPORATION #66	UNIFORM RENTAL WTP	179.95
4025	CINTAS FIRST AID AND SAFETY	FIRST AID SUPPLIES	166.05
13260	CLIFTON LARSON ALLEN LLP	NOV 18 UTILITY BILLING SE	8,874.16
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	86.30
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	157.50
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	157.50
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	766.00
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	188.00
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	51.30
1120	COLORADO ANALYTICAL LABORATORI	LAB ANALYSIS FEES WTP	157.50
14678	COLORADO AVIAN RESEARCH & REHA	NEXT BOXES & CAMERA CLOUD	1,178.00
10056	COLORADO DOORWAYS INC	PUMP STATION DOOR REPAIR	464.00
11353	COLORADO LIBRARY CONSORTIUM	SKYRIVER	538.78
14634	COLORADO SOUND N' LIGHT INC	Stereo Systems Cycling Ro	5,965.00
14634	COLORADO SOUND N' LIGHT INC	Stereo Systems Fitness St	1,614.00
11169	COMMERCIAL FITNESS SOLUTIONS I	Keiser Spin Bikes	53,625.00
13370	CRIBARI LAW FIRM, PC	DEC 18 PROSECUTING ATTORN	3,887.00
14680	CWA CONSULTING SERVICES LLC	Local Limits Re-evaluatio	2,275.00
10590	DELL MARKETING LP	LAPTOP REPLACEMENT CROSS	2,439.19
14659	DESMAN INC	PARKING STRUCTURE CONCEPT	7,620.00
13929	DHE COMPUTER SYSTEMS LLC	FM RADIO STATION LAPTOP	1,173.39
13929	DHE COMPUTER SYSTEMS LLC	FM RADIO STATION LAPTOP	897.72
13929	DHE COMPUTER SYSTEMS LLC	FM RADIO STATION DVD BURN	116.71
1505	DPC INDUSTRIES INC	Chlorine Gas NWTP	998.00
14367	DUNAKILLY MANAGEMENT GROUP COR	Owner's Rep for RSC Expan	12,187.50
14531	E3 SIGNS	Historical Interpretive S	15,577.63
14531	E3 SIGNS	NW CORRIDOR BICYCLE & PED	1,769.25
12841	ECONOMIC & PLANNING SYSTEMS IN	McCaslin Area Market Stud	5,755.00

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
14574	EUROFINS EATON ANALYTICAL LLC	LAB ANALYSIS FEES WTP	1,210.00
1915	EXQUISITE ENTERPRISES INC	NAME PLATE IT	11.20
1915	EXQUISITE ENTERPRISES INC	NAME PLATES P&R DIR	26.40
12270	FASTENAL COMPANY	TOOLS OPS	100.33
13615	FELSBURG HOLT & ULLEVIG INC	Dillon Traffic Analysis	9,921.84
14689	FLEETCARMA	Electric Vehicle Fleet St	12,294.00
13739	FRONT RANGE EYE HEALTH CENTER	2018 SUMMIT VIEW DR MEDIA	33.10
10623	FRONT RANGE LANDFILL INC	2018 Landfill Fees	5,835.42
6847	GENERAL AIR SERVICE & SUPPLY	CYLINDER RENTAL OPS	76.69
2310	GRAINGER	SAFETY EQUIPMENT SCWTP	277.23
2310	GRAINGER	BOAT SIGNAL WHISTLE	12.30
2310	GRAINGER	STEEL RACK NWTP	694.76
2310	GRAINGER	LAB SUPPLIES WTP	516.27
2310	GRAINGER	BANKER BOXES SWTP	115.80
2310	GRAINGER	VACUUM FM	405.70
2310	GRAINGER	TOOLS FM	711.63
2310	GRAINGER	TOOLS FM	58.64
2310	GRAINGER	TOOLS FM	63.28
2310	GRAINGER	BALLAST RSC	341.84
2310	GRAINGER	QUARTZ METAL HALIDE RSC	216.72
2310	GRAINGER	EMERGENCY LIGHT LIB	514.80
246	GREEN MILL SPORTSMAN CLUB	RANGE USE	150.00
14492	GROUP 14 ENGINEERING PBC	Commissioning Services RS	11,000.00
14492	GROUP 14 ENGINEERING PBC	Commissioning Services RS	3,000.00
2405	HACH COMPANY	PH PROBE WTP	445.00
2405	HACH COMPANY	LAB SUPPLIES WTP	444.26
2405	HACH COMPANY	WTP Instrumentation Upgra	936.00
2405	HACH COMPANY	Hach Spectrophotometer WT	2,448.75
2405	HACH COMPANY	Hach Spectrophotometer WT	1,017.68
2405	HACH COMPANY	WTP Instrumentation Upgra	3,360.80
14705	HEIDI S BRINKMAN	TEAM EMERGENETICS WORKSHO	2,450.00
11025	HOFF CONSTRUCTION	Arboretum ADA Restroom Co	19,784.98
645	HUMANE SOCIETY OF BOULDER VALL	2018 Q3 ANIMAL IMPOUND FE	2,610.00
13280	INSIGHT PUBLIC SECTOR INC	ADOBE CREATIVE CLOUD PLAN	306.78

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
13280	INSIGHT PUBLIC SECTOR INC	FM RADIO STATION MS OFFIC	537.64
10558	INTERMOUNTAIN VALVE & CONTROLS	VALVE MOUNTING KIT WTP	306.60
14239	JC GOLF ACCESSORIES	RESALE MERCHANDISE	91.43
14429	JNL COMMUNICATIONS LLC	BROADCAST FIBER REPAIR CH	1,733.60
14429	JNL COMMUNICATIONS LLC	BROADCAST FIBER REPAIR LI	1,528.40
2780	KAISER LOCK & KEY SERVICE INC	DUPLICATE KEYS MS	45.00
2780	KAISER LOCK & KEY SERVICE INC	ALARM LOCK BATTERY PACK W	108.00
3005	LEWAN & ASSOCIATES INC	COPIER STAPLES	199.95
3100	LOUISVILLE CHAMBER OF COMMERCE	PARADE PEDESTRIAN FENCE R	1,935.84
5432	LOUISVILLE FIRE PROTECTION DIS	BLOOD DRAWS 5/3-12/9/18	210.00
5432	LOUISVILLE FIRE PROTECTION DIS	TRANSPORT TO JAIL 12/1/18	250.00
14071	MARY RITTER	CONTRACTOR FEES 30043-3	700.00
13846	METECH RECYCLING INC	IT ELECTRONIC RECYCLING	684.00
13846	METECH RECYCLING INC	IT ELECTRONIC RECYCLING	550.88
13712	MOORE IACOFANO GOLTSMAN INC	Median Renovation Design	1,578.75
11061	MOUNTAIN PEAK CONTROLS INC	PRV TROUBLESHOOTING WTP	250.00
11061	MOUNTAIN PEAK CONTROLS INC	PLC FAULT TROUBLESHOOTING	687.50
1072	MUNICIPAL TREATMENT EQUIPMENT	DRUM LEVEL MONITOR WWTP	964.00
3505	NALCO COMPANY LLC	ACRYLIC POLYMER WTP	364.32
14648	OCCUPATIONAL HEALTH CENTERS OF	DRUG SCREEN & PHYSICAL	1,019.50
14648	OCCUPATIONAL HEALTH CENTERS OF	PHYSICAL	292.00
14648	OCCUPATIONAL HEALTH CENTERS OF	PHYSICAL	146.00
14648	OCCUPATIONAL HEALTH CENTERS OF	PHYSICAL & DRUG SCREEN	179.00
14648	OCCUPATIONAL HEALTH CENTERS OF	PHYSICALS	438.00
14648	OCCUPATIONAL HEALTH CENTERS OF	PHYSICALS	357.00
99999	JERI GROOVER	ACTIVITY REFUND	70.00
99999	PARAMOUNT SIDING & WINDOWS	PERMIT REFUND 1464 TRUMAN	99.48
99999	ADVANCED EXTERIORS INC	PERMIT REFUND 1418 WASHIN	373.21
99999	J & K ROOFING	PERMIT REFUND 171 LOIS CI	233.10
99999	EARTH SAVING SOLUTIONS	PERMIT REFUND 896 BARBERR	463.15
99999	JANE BRALEY	ACTIVITY REFUND	50.00
99999	BRUCE BENNETT	ACTIVITY REFUND	1,015.00
13649	OVERDRIVE INC	ADULT EAUDIO BOOKS	478.18
13649	OVERDRIVE INC	TEEN EAUDIO BOOKS	241.46

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
13649	OVERDRIVE INC	ADULT EAUDIO BOOKS	284.43
13649	OVERDRIVE INC	CHILDREN EAUDIO BOOKS	245.17
14381	PALEOWEST ARCHAEOLOGY	HPC CONSULTING SERVICES	555.06
14554	PERKINS + WILL INC	RSC EXPANSION DESIGN SERV	24,288.06
5898	PIONEER SAND COMPANY INC	GLACIER WHITE BOULDER SC	1,084.80
5898	PIONEER SAND COMPANY INC	GLACIER WHITE BOULDER SC	900.90
14675	POINT AND PAY LLC	NOV 18 P&P CREDIT CARD FE	4,760.58
11329	POLYDYNE INC	CLARIFLOC C-4420 NWTP	624.15
700	PRAIRIE MOUNTAIN MEDIA	DISPOSAL OF FOUND PROPERT	21.00
14704	PROFESSIONAL POLICE & PUBLIC S	ADMINISTRATIVE APPEAL	3,850.00
13419	ROADSAFE TRAFFIC SYSTEMS CORP	WHITE THERMOPLASTIC	369.50
14561	RUSSELL + MILLS STUDIOS INC	UPDATE GUIDELINES & SIGN	15,457.50
11306	SAFEWARE INC	SENSOR CALIBRATION WTP	412.00
14696	SALT LAKE WHOLESALE SPORTS	Ammunition	7,270.00
14459	SAUNDERS CONSTRUCTION LLC	Construction Services RSC	1,673,309.17
13644	SCHULTZ INDUSTRIES INC	2018 Landscape Maintenanc	19,761.56
14463	SCMS INC	Backup Transmitter	3,461.85
14463	SCMS INC	RADIO STATION EQUIPMENT	1,633.98
14463	SCMS INC	RADIO STATION EQUIPMENT	1,477.04
11395	SHRED-IT USA LLC	SHRED SERVICE RSC	130.86
11395	SHRED-IT USA LLC	SHRED SERVICE PD	30.00
14207	SMALL AXE TREE CARE	TREE PRUNING	1,400.00
14612	SOME LIKE IT GREEN	DEC 18 PLANT MAINTENANCE	80.00
14612	SOME LIKE IT GREEN	DECEMBER PLANTS RSC	242.20
14396	SPRONK WATER ENGINEERS INC	Nov 18 Water Rights Engin	5,510.00
13673	STERLING TALENT SOLUTIONS	BACKGROUND CHECKS	1,500.40
1201	SUPPLYWORKS	LAB ANALYSIS FEES WTP PC	78.56
1201	SUPPLYWORKS	JANITORIAL SUPPLIES LIB	117.84
1201	SUPPLYWORKS	BREAK ROOM SUPPLIES CS	293.84
1201	SUPPLYWORKS	JANITORIAL SUPPLIES WTP	93.84

CASH ACCOUNT: 001000 101001 WARRANT: 123118 12/31/2018

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
1201	SUPPLYWORKS	JANITORIAL SUPPLIES WWTP	93.84
11125	TERRACON CONSULTANTS INC	Phase II Coyote Run Monit	825.00
14224	THE NOVAK CONSULTING GROUP INC	BACKGROUND CHECKS P&R DIR	1,355.03
14483	ULINE INC	WORKBENCHES NWTP	1,596.43
14532	UNITED REFRIGERATION INC	LIGHTING PARTS RSC	60.22
13241	UNITED REPROGRAPHIC SUPPLY INC	OCE PRINTER PAPER	150.95
11087	UNITED SITE SERVICES OF COLORA	TOILET RENTAL CENTENNIAL	212.80
6509	USA BLUEBOOK	CALIBRATION GAS SWTP	243.29
6509	USA BLUEBOOK	CALIBRATION GAS OPS	243.29
13891	VERIS ENVIRONMENTAL LLC	Biosolids Hauling Contrac	1,624.25
13891	VERIS ENVIRONMENTAL LLC	Biosolids Hauling Contrac	1,704.06
4900	VRANESH AND RAISCH LLP	NOV 18 WINDY GAP LEGAL SE	658.31
1191	WEED WRANGLERS INC	2018 Noxious Weed Control	134.80
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES CS	63.84
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES RSC	899.76
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES PC	44.00
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES LIB	36.74
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES LIB	638.89
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES RSC	1,368.83
9511	WESTERN PAPER DISTRIBUTORS INC	JANITORIAL SUPPLIES CH	320.66
9511	WESTERN PAPER DISTRIBUTORS INC	BREAK ROOM SUPPLIES CH	180.28
10884	WORD OF MOUTH CATERING INC	SR MEAL PROGRAM 12/10-12/	2,601.50
7924	WORLD BOOK INC	CHILDRENS BOOKS AND MEDIA	999.00

189 INVOICES WARRANT TOTAL 2,046,227.26

CASH ACCOUNT: 001000 101001 WARRANT: 010819 01/08/2019

VENDOR	VENDOR NAME	PURPOSE	AMOUNT
11353	COLORADO LIBRARY CONSORTIUM	TUMBLEBOOKS	621.77
1250	COLORADO MUNICIPAL LEAGUE	2019 CML MEMBERSHIP DUES	19,886.00
13876	COMPSYCH CORP	2019 GUIDANCE RESOURCES	4,175.00
9429	ICMA	2019 ICMA MEMBERSHIP BALS	1,400.00
13468	MANGO LANGUAGES	LANGUAGE LEARNING	3,516.98
6559	METRO CITY & COUNTY MANAGEMENT	2019 MCCMA MEMBERSHIPS &	270.00
14542	SDSPRO LLC	SDSPROVIDER ESSENTIAL ADV	2,094.00
14701	SUPERIOR CHAMBER OF COMMERCE	2019 SUPERIOR CHAMBER MEM	280.00
12049	SWANK MOVIE LICENSING USA	MOVIE LICENSE #200709001	628.00
7924	WORLD BOOK INC	WORLD BOOK ONLINE	1,629.00
	10 INVOICES	WARRANT TOTAL	34,500.75

City Council

Meeting Minutes

December 18, 2018
City Hall, Council Chambers
749 Main Street
7:00 PM

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council:	***Mayor Robert Muckle*** ***Mayor Pro Tem Jeff Lipton*** ***Councilmember Jay Keany*** ***Councilmember Chris Leh*** ***Councilmember Dennis Maloney*** ***Councilmember Ashley Stolzmann***
Absent:	***Councilmember Susan Loo***
Staff Present:	***Heather Balser, City Manager*** ***Megan Davis, Deputy City Manager*** ***Kevin Watson, Finance Director*** ***Kurt Kowar, Public Works Director*** ***Rob Zuccaro, Planning & Building Safety Director*** ***Lisa Ritchie, Senior Planner*** ***Meredyth Muth, City Clerk***
Others Present:	***Kathleen Kelly, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Stolzmann. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Hank Dalton, 651 St. Andrews Lane, stated he thought the appointments to the Revitalization Commission included one member being publically humiliated. He urged Council to rethink the process so that does not happen again.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Keany. Mayor Pro Tem Lipton abstained from the consent agenda vote. All were in favor**.**

- **A.** Approval of Bills
- **B.** Approval of Minutes: November 27, 2018; December 4, 2018; December 10, 2018; December 11, 2018
- **C.** Approval of Distributions for Non-Profit Grant Program for 2019 and 2020 Based on Finance Committee Recommendations
- **D.** Approval to Extend Custodial Services Contract with ISS Facility Services Through March 31, 2019
- **E.** Approval of Purchase of 14.04 Shares of the Farmers Reservoir and Irrigation Company
- **F.** Approval of 2019 City Council Appointments to Boards and Commissions
- **G.** Approval of Resolution No. 59, Series 2018 – A Resolution Approving the Fourth Amendment to the Fifth Interim Agreement Between the Municipal Subdistrict, Northern Colorado Water Conservancy District Windy Gap Firming Project Water Activity Enterprise, and the City of Louisville for Participation in the Windy Gap Firming Project
- **H.** Approval of Resolution No. 60, Series 2018 – A Resolution Amending Resolutions No. 20, Series 2009; No. 20, Series 2010; No. 2, Series 2012; and No. 4, Series 2014; and Resolution No. 21, Series 2016 Which Implemented Voter-Approved Taxes for Historic Preservation, to Update Administrative Provisions to Reflect 2017 Ballot Issue 2F

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle noted former Mayor Fauson recently passed away. Herman Fauson was on Council from 1980-1986 and Mayor from 1986-1992. Some significant items during his time as Mayor include the building of the golf course and the recreation center. Mayor Muckle thanked him for his service to the City.

CITY MANAGER'S REPORT

City Manager Balser stated that in October the arboretum closed the restroom due to cold, it is now powered and open again. She wished everyone happy holidays.

REGULAR BUSINESS

RESOLUTION NO. 61, SERIES 2018 – A RESOLUTION AMENDING THE 2018 BUDGET BY AMENDING APPROPRIATIONS IN THE WATER UTILITY FUND, STORM WATER UTILITY FUND, AND FLEET MANAGEMENT FUND FOR ADDITIONAL APPROPRIATIONS WITHIN SUCH FUNDS – PUBLIC HEARING

Mayor Muckle introduced the item and opened the public hearing. Director Watson stated this resolution would amend the City's 2018 Operating & Capital Budget to do the following:

1. Acquire additional water rights ($281,000);
2. Purchase a street sweeper ($270,300); and
3. Replace vehicles damaged by hail storm ($211,310). Insurance proceeds will cover a significant portion of this additional appropriation. Revenue adjustments will occur in the future and any net loss will be covered by the Fleet Replacement Fund.

Councilmember Maloney noted the Finance Committee has reviewed this amendment and he supports it.

Public Comments – None

Mayor Muckle closed the public hearing.

Councilmember Keany moved to approve Resolution No. 61, Series 2018; Councilmember Leh seconded the motion.

Councilmember Stolzmann stated she supports this and the water purchase is good for Louisville.

Voice vote: All in favor.

RESOLUTION NO. 62, SERIES 2018 – A RESOLUTION APPROVING A SPECIAL REVIEW USE TO ALLOW THE CONSTRUCTION OF AN EXTERIOR COLUMBARIUM (USE GROUP #22) FOR THE PROPERTY AT 506 VIA APPIA

Mayor Muckle introduced the item.

Planner Ritchie stated the applicant, Christ the Servant Lutheran Church, requests approval of a Special Review Use (SRU) to allow an exterior columbarium in a newly constructed courtyard on the northeast side of the existing facility at 506 Via Appia. She noted the additional public comments that have come in since the packet was published were available for reading.

A columbarium is a room or wall with niches for storage of funeral urns and is classified as a Cemetery under the Louisville Municipal Code (LMC). Approval of this application would allow only what is proposed; any changes would require additional approvals. She reviewed the history of the property.

The application, if approved, will not allow burial of human remains rather it will only permit the construction of the columbarium as shown on the SRU plans to hold cremated human remains. The property, and the surrounding neighborhoods are zoned Residential Estate (RE). A cemetery requires approval of a SRU in the RE zone district.

This was originally submitted in September 2017, after meetings with neighbors the applicant submitted a new design and included a trip generation letter that shows no increase in traffic, with which Public Works concurs.

The columbarium will be in a fully enclosed courtyard with a 7'4" foot wall. All access to the columbarium is from inside the Sanctuary, with no access from outside. From the exterior it will match the existing building. The niches for urns are located on the screen walls facing the existing church and are not visible from the exterior of the building. Planner Ritchie showed renderings of the proposed columbarium.

Ritchie stated staff recommends approval of the Special Review Use.

Councilmember Maloney asked if this is a cemetery use or a church use. He noted he thinks when it was external facing it might be more cemetery, but now as it is internal facing it seems more of a church use. Ritchie stated it could have fallen in either category. Staff felt the use as a cemetery was the most appropriate and consistent with the code based on the use, not the design.

Director Zuccaro stated staff looked at many definitions as there is no definition in the LMC but did find this consistent. He noted either way staff would be looking at the design, external impacts, lighting, architecture, etc. They felt cemetery use was the appropriate category when the application was submitted. Ritchie noted either use would have required a Special Review Use hearing.

Mayor Pro Tem Lipton asked if the City Attorney could highlight the federal law affecting this application.

City Attorney Kelly stated the requirements of the Religious Land Use and Institutionalized Persons Act (RLUIPA) prohibit a local government from applying zoning laws and regulations in a way that substantially burdens religious exercise including the use, building or conversion of real property for the purpose of religious assembly without a compelling government interest pursued through the least restrictive means. It also prohibits local governments from treating religious uses less favorably than non-religious assembly and uses. It prohibits local governments from discriminating based

on religion or religious denomination and prohibits local governments from applying zoning laws that unreasonably restrict religious uses within their jurisdictions.

Mayor Pro Tem Lipton asked if this is considered to be a religious use. City Attorney Kelly noted the applicants have framed it as a part of their religious exercise at that site which they want to be able to offer to their congregation.

Councilmember Leh asked how critical the applicant's characterization is. City Attorney Kelly stated it is not determinative, but Council should take it into consideration along with any presentation and public comments. The criteria in the LMC need to be applied as is always the case.

Councilmember Leh stated he is concerned there is some ambiguity in the characterization of the use, church vs. cemetery. He wonders how the lack in clarity in the LMC might affect this application review. He was concerned the lack of clarity could be a problem for the City.

City Attorney Kelly stated the City's use categories require a Special Review for both churches and cemeteries and they have the same criteria.

Councilmember Leh asked if "compelling interest" should be more clear as the public does not necessarily understand that legal term.

City Attorney Kelly stated the compelling interest comes into play if it can be shown that a substantial burden has been placed on the exercise of the religious activity. Then the government must demonstrate that the burden placed on the activity advances a compelling interest in the least restrictive means possible. Courts will look at what burden has been placed on the applicant under the strictest standards. Courts have found that aesthetics and abstract traffic concerns are not compelling interests.

Applicant Presentation

Stephanie Lord, 917 Arapahoe Circle, pastor of Christ the Servant Lutheran Church (CTS), stated this is a remembrance garden which will include the columbarium. She noted cremated remains are inert and do not change over time. She noted each niche has a granite faceplate only accessed by a special tool or key. The congregation has worked for 18 months and learned a lot from their neighbors which is why they changed the design to have the least neighborhood impact and be an internal resource to the church. The location of the columbarium was moved so it is walled in and accessible only through the sanctuary when the church is open, primarily daytime hours. The visible part is the 7'4" wall that matches the building and it will be landscaped.

The church has been at this location for 30 years and this remembrance garden is one percent of the total footprint. The church averages three memorial services per year and she sees no reason to think that will increase.

The pastor noted she understands the emotions around this topic. This location is important to the congregation to show they are not alone in facing death.

Jeff Layman, member of the church and the columbarium committee, stated the goal has always been to be a good neighbor for this project. In the initial conversations with the Planning Department they were advised to have a neighborhood meeting and invited those within 500 feet of the property. The meeting did not go well at all and the church members understood why, the location faced neighbors directly, it was a bad first attempt. The committee went back to the drawing board to come up with the plan here tonight, no homes face the structure, everything is screened by a wall that matches elevations, and juniper trees are added to block it, and the only access is from inside the church.

A second meeting with the neighborhood presented this new design. There was still some opposition, but it was better. The opposition comes down to three things: affecting property values which is hard to verify; the classification as a cemetery – there will only ever be inert ashes; and traffic, there was a traffic impact letter and the church is willing to do a second study if that is helpful. Mr. Layman felt this design addresses the concerns.

Councilmember Leh asked the applicant if they considered any alternative locations other than on the property. Lord stated having it on the property is consistent with their identity and mission.

Public Comments

Anne-Marie Petrie and John Schneider (748 Orchard Court) pooled their speaking time. Anne-Marie Patrie, 748 Orchard Court, long-time resident and member of church, was very excited for the columbarium. She wanted to address concerns of what would happen if the church closed permanently and left the columbarium. Worst case scenario, the regional synod would work to move ashes to a new site as families determine. She did object to classification as cemetery and felt it was too jarring for what the church wants to do with the columbarium. It will not have the appearance of a cemetery. Any fees charged will only be for construction and maintenance. She understood people's discomfort with death, but felt the church might be the best place to deal with that. She noted many churches in surrounding areas have a columbarium on their property.

Maureen Kannischer, 2335 Andrews Drive, Superior, member of CTS stated she wanted to address the emotional side of this conversation. It is important for her to have a columbarium in the same place they worship to be able to recognize those who have passed on. This is part of the religion and how lives are celebrated. It is not going to affect property values or increase traffic or affect the aesthetics of the neighborhood, but it will allow the members to practice their faith in a way that is meaningful.

Lee Fowler, 700 Pine Needle Lane, stated this issue has sparked conversation for him. He stated everyone's own histories will affect how they think of this issue. He asked if there is a more positive or more negative impact from the columbarium.

Dave Chapmen, 700 Pine Needle Lane, asked if anyone on Council belongs to the church. He lives one block from the church. He would like the church to look at other locations, he is concerned it is a business that could be expanded. He asked Council to deny the application.

Sandra Davidson, 897 Cleveland Court, thought her residence was within 500 feet of the church and she did not receive a letter and did not know it was happening. She would not have purchased the property if they knew a cemetery would be there. It will remind her of death. Thinks more than 10% of the neighbors oppose this. She read an article from realtors association that if all other things being equal if near a cemetery lose 12.5% of value. The church should look at other locations and not infringe on her right to peace of mind.

Dan Fox, 566 Spruce Circle, agreed he did not get notice of the plan and thinks it is within 500 feet. He talked to neighbors about this and has deep concerns property values will go down and traffic will increase, He wants want to know what the benefit is to the neighborhood, not to church members who don't live in the area. He opposed the plan.

Gail Hartman, 724 Ponderosa Court, never received notification of the first church meeting but was notified of the second meeting. She urged denial of the application as she felt City staff misinterpreted two criteria; use will be contrary to the general welfare and prosperity of the immediate neighborhood and use will not lend to economic stability to the surrounding area. A cemetery application is not compatible with the neighborhood and contrary to economic value. Realtors will say cemeteries nearby will lower the value of a home. She noted this is a money making venture for the church, and benefits the church not the neighborhood or city. If approved she said the church would come back and ask for many more cremains to be allowed. The Planning Commission members who voted no found it not a compatible use with the neighborhood, others noted items having nothing to do with land use.

Gina Fox, 566 Spruce Circle, stated she lives adjacent to the church and never received notice. She feels this is a disturbing use. She felt Council should not be having this hearing so close to Christmas. Many cultures are uncomfortable buying a house close to a cemetery. There will be increased traffic and people. She was very upset about not receiving notice.

Lu Yu, 720 Pine Needle Lane, counted about 105 households in the neighborhood and there are signatures of more than 50 asking for denial. It is not a few neighbors who are concerned about this. Neighbors do not support this. He didn't think it not being visible

and behind a wall matters, it is still there. He understands this is a land use discussion asking for a variance, he stated it does not meet the code. This is not compatible with surrounding established areas, the development is contrary to the general welfare of the immediate neighborhood. The plan doesn't benefit the neighborhood or contribute to the general welfare or the prosperity of the immediate neighborhood. He asked for denial based on the rules.

Gary Pawlas, 546 Hoptree Court, stated he lives in the neighborhood and asked for support for the project. He noted he has visited a columbarium in Florida where his parents are interred and surrounding housing prices are up 15% the past few years, same with Boulder churches with columbaria. This is really about death and spirituality and people's comfort with that. CTS did change their design based on the neighbors, it now blends in completely with the church. He urged religious freedom to allow our neighbors to express this in a private manner in the columbarium. It is inward facing, accessed through the church, no increase in traffic. He urged support for the church in their expression of religious freedom.

Gustavo Giudice, 1067 Eagle Court, stated he is a Christian but his concern is the financial impact to the community and if there is value to the community.

Jennifer Lorenz, 727 Pine Needle Lane, encouraged review of nonbiased evidence submitted. She felt there should be a neutral application of the code which will not make it a religious case. The rezoning application is for a cemetery and the precedent it would set has far reaching implications in the community. She asked to please take into consideration the multitude of signatures in opposition.

April Mace, 741 Pine Needle Lane, stated the neighbors should not incur financial impacts for the religious practices of the church.

Scott Kanwischer, 2335 Andrews Dr., Superior, church member, stated this is filling the mission of the church and allows the congregation to fulfill their faith from life to death. It is not a money making proposition. He encouraged approval.

Council Comments

Councilmember Maloney asked if the notification process was sufficient. Ritchie stated the first meeting was organized by the church; the City pulls their list from the County Assessor's list and she had no reason to believe there was any error in the mailing. The area for mailing was measured from the property line of the church 500 feet in every direction and includes all properties it might touch.

Councilmember Stolzmann asked if anyone needs to recuse themselves or is a member of the church. No members of Council are members of the Church. Councilmember Stolzmann asked that all information and public comments be formally entered into the record. City Attorney Kelly stated all items already had been entered.

Mayor Pro Tem Lipton asked if a Council member were a member of the church if recusal would be required as a conflict of interest. City Attorney Kelly stated not according to the State conflict of interest laws, but in the spirit of transparency, each Council member should decide if a disclosure were appropriate. Mayor Pro Tem Lipton stated he had no affiliation with this church but was a little uncomfortable with Council members having to disclose church affiliation.

Councilmember Leh asked the applicant if this is a money making proposition as some have described; he asked how the money that comes in would be used; is it related to the cost of the project. Lord stated the church is a non-profit entity and income is dependent on the offerings of the congregation. Currently, she doesn't know the cost for a niche, but the financial plan has the money in a dedicated fund to be used for construction, engraving of the niche and then the maintenance of the columbarium.

Mayor Muckle asked if the remembrance garden will be only for the church members. Lord stated yes, it will be for church members. Originally thought to have it open to others, but changed that after the neighborhood meeting. Mayor Muckle asked if there would be marketing or signage about the columbarium. Lord stated no.

Mayor Muckle asked if approval of this would allow for any expansion or another cemetery on site. Ritchie stated nothing other than what was presented is allowed. It does not set a precedent in town as each application is reviewed on a case by case basis.

Councilmember Keany asked if this is a rezoning application as one commenter stated. Ritchie stated the zoning will stay RE this is only a Special Review Use (SRU).

Mayor Muckle stated the planning commission voted 4-3 finding it met the SRU criteria and staff feels it meets the criteria. People feel strongly for different reasons, but he felt it does meet the criteria. He can't answer the property value question but as it will be unadvertised and behind a wall, he had a hard time understanding how it will affect property values in this situation with this design with no public presence or use. The church's effort to disguise the use made him agree with staff.

Councilmember Stolzmann thanked everyone for their input. She stated some things are allowed by right in zone districts, but others require Special Review which has factors that might need to be considered or mitigated so it would be consistent in the zone district. She stated she does not dispute the designation this is a cemetery by the zoning administrator but there is an appeal process if someone wants. She stated the second criteria is where she has pause; "That such use/development will lend economic stability, compatible with the character of any surrounding established areas". She finds compelling evidence was presented that property values are lower near a cemetery. It has not met criteria two so it does not meet the criteria of the special review.

Councilmember Leh stated this is a difficult conversation. This is a quasi-judicial hearing with rules and evidence. It is not just the LMC but also Federal law that is important here. He stated there are factors that are not relevant, but Criteria 1 and 2 are. Criteria 3 is met by the proposal. Criteria 4 is met; the traffic study shows it will be negligible. Criteria 5 is about pedestrian access and is met. Criteria 1 notes compatibility of the neighborhood; Criteria 2 speaks to economic stability.

Councilmember Leh felt the principal difficulty is the characterization of this as a cemetery, but he thinks it is essential to look beyond the label to what it is: a structure not visible to the community; looks just like the church. Churches are a part of the community and serve a purpose to the community. Whether this use supports the general welfare and economic prosperity is hard to know. The way this looked in the first version faced out and faced homes; the revised version makes it not look like a cemetery. The fact we have to use this word does not make it look like a cemetery. It is a wall to the community with only inert remains on the inside. He found it difficult to believe that will have an adverse impact to property values when you won't know what it is unless you go inside it. He didn't find it contrary to economic prosperity at best it is neutral.

Councilmember Leh didn't think this economic criteria requires adding positive revenue to the city. Ritchie stated the criteria stands on its own, but does not include having to provide revenue for the city. Councilmember Leh stated he feels the criteria is met and didn't think the information provided showed it would decrease property values as opposed to an actual graveyard. Using this label alone he didn't think it will affect property values. At this point he supports the application.

Councilmember Maloney stated the Planning Commission 4-3 vote is because they were deliberative in their process. He thanked the church for amending the original design. The citizen input is both pro and con and taken into consideration. Looking at Criteria 2 he feels this is not a cemetery in a normal sense, it is enclosed within the church building and is very much within the structure of the church. He didn't believe property values will be affected by 12% and agreed with staff it meets criteria 2 and will support the application.

Councilmember Maloney asked how RLIUPA should be considered in the decision-making process. City Attorney Kelly stated the federal law underlies the city's application to the facts of the city criteria. RLIUPA would come into play if the city's application of the facts substantially burdened the practice or expressions of religion or treated a church applicant less favorably than any other applicant. She didn't feel she had heard any of the concerns RLIUPA is there to prevent.

Councilmember Keany thanked the public for their input and interest in this process. After listening to all the information he noted he tried to come to this with an analytical point of view. He agreed with Councilmember Leh that if the application were for a physical cemetery with tombstones it would be different consideration. What is being

asked for is reasonable and the church's redesign was an improvement over the original design. He said he would support it.

Mayor Pro Tem Lipton stated struggling with aspects of this. He thought the impacts will be minor, but felt the concern in not being able to fully understand the impacts. He stated he was not sure this is what was contemplated in the Comp Plan and didn't know if it would be an appropriate use in other neighborhoods. The expectation of neighbors is that this is an RE zone and the creeping use change concerns him. Not-withstanding the fact that as a government we have to support our institutions and need to support their ability to thrive in our community. He was concerned about a lack of information on economic stability; no evidence provided by staff on what impacts this might have on property values and people who have already invested in these neighborhoods. He suspects it won't have much impact but would have liked more information on that. In the absence of that information he felt the burden of proof was on the applicant. We have to objectively apply the criteria but there is some subjectivity.

Public Comments

Gina Fox, 566 Spruce Circle, this is a change in the structure of the neighborhood to add a cemetery and nothing stops them from asking again for more. Notice of this meeting was not reasonable. She wanted to see the list of who got notified. Let's find out the impact on housing values and traffic before it is built. She asked if 1) She can get list of who was notified, it seems arbitrary, 2) How everyone on Council is related to the church, 3) Why the notice sign was so small, 4) What is financial benefit to the community and 5) How many letters in opposition were received.

Lu Wu, 720 Pine Needle Lane, stated the crucial criteria is financial impact. He provided professional opinion this will reduce property values. He felt there is no positive impact from this and the Council should not rush the decision.

Maureen Kanwischer, 2335 Andrew Dr., Superior, CO, agreed using the term cemetery brings tombstones to mind, this is not what the church is doing. That is what will reduce property values, not something like this. She looked for evidence that this affects property values; cemeteries yes, funeral homes yes, columbaria no. This is invisible to those driving by and will not affect property values. CTS is a non-profit institution and this will not be a money making endeavor it will only cover the cost. She noted neighborhood kids use the playground and neighbors use the area, CTS welcomes the neighbors.

Alyssa Burger, Westminster, CO and a member of CTS stated she can't quantify the financial benefit of CTS to the community, but they support meals on wheels, habitat for humanity, Sister Carmen and others. A large amount of money from the church is going back into the community. Members volunteer to take care of the community. She appreciated the worry about property values, but thought Council should consider what CTS has done for the community already.

John Schneider, noted the list the church used for who received mail came from him. He stated he used the County Assessor's map to get the property names. It included both tenants and residents. There was no ill intent.

Jan Zimmerman, 821 Trail Ridge Drive, noted she is near the church, not within the 500-feet and is a church member. The church voluntarily did the neighborhood meetings to be transparent about the project.

Sandy Davidson, 897 Cleveland Court, noted her residence predated the church. She stated the definition of cemetery includes "remains of dead people" and felt this would infringe on her peace of mind.

Jennifer Lorenz noted there is no requirement the church send out notice. It was a courtesy. She asked if the Special Review Use is a rezoning issue. She heard this would not set precedent, believes that is not true. We know for a fact that if go through this process with other sites to be considered, Denver does this. She did not feel Council is following the elements of the code with the definition of the code; there is an obligation to consistently apply the law. Establishment clause and free speech works both ways and should protect both the church and the residents.

Michael Scaer, 701 Church Lane, has lived there 23 years. He asked if this is approved, what will someone looking at a house see on the map. He asked if it would be listed as a cemetery. He talked to a lot of neighbors and understands the concerns but wanted to know what this will look like in 5 years.

Gale Chapman, felt it was safe to say Council and Church members don't live in the neighborhood and aren't impacted by this. He felt there still isn't real information about property values and in the long-term it isn't known.

Mayor closed the public hearing.

Councilmember Stolzmann clarified the comments posted on the wall are only those received since the packet was published and all previous ones were presented to Council in the packet materials. She noted the City does have a mailing requirement for notices. Ritchie stated there were two mailings at least 15 days prior to both Planning Commission and City Council with a map and dates and times of meetings and staff contact information. Anyone can ask to see the list.

Councilmember Stolzmann asked about the size of the sign. Ritchie stated it was the same sign for both notices with updated information.

Councilmember Leh stated regarding criteria 2 and the economic stability piece; he does not want to minimize the property value piece; it is important. He read the criteria and noted the need to be careful from a Council standpoint in requiring some positive

fiscal impact to the community. We don't do that in other circumstances. Then there is the consideration of negative impact or the loss of property value. Councilmember Leh believed the criterion is met. We have to evaluate each piece of evidence ourselves. The realtor noted in the public comments is stating his opinion given how it is phrased and stated. The other information is not about columbaria, it is about cemeteries. There is legitimate concerns about property values and he is weighing that. If denied the church could put urns inside and never tell anyone and it would have the same effect. This design does not appear to have an adverse effect on property values. He noted churches do lend economic stability to the city and to the neighborhood. It is compatible with the existing church. The term cemetery connotes a lot of things for a lot of people.; we still have the same criteria. This project being labeled as a cemetery has driven the debate, but does not drive the decision. He felt the criteria have been met.

Councilmember Stolzmann stated she has not heard any evidence this will contribute to economic stability; that proof is absent. She feels the definition as cemetery was decided and has to be considered as such with the process.

Mayor Pro Tem Lipton made a motion to approve Resolution No. 62, Series 2018; seconded by Councilmember Maloney.

Mayor Muckle asked staff about the changes requested from the Planning Commission. Ritchie stated all Planning Commissions conditions have been met and staff is recommending approval with no conditions.

Discussion of the motion

Mayor Muckle thanked everyone their engagement in this process. He hoped people feel the process is fair and objective.

Mayor Muckle stated he thinks in five years no one will know what is there behind the wall and there is no need for the neighbors to disclose that to prospective home buyers. City Attorney Kelly noted the zoning remains intact and this is not a variance. This is a Special Review Use to allow what is in the application.

Roll Call Vote 4-2. Mayor Pro Tem Lipton and Councilmember Stolzmann voting no.

CITY ATTORNEY'S REPORT

No report.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

After a 5-minute recess the Mayor reconvened the meeting.

Mayor Pro Tem Lipton asked Council to consider rescheduling the parking garage item and the McCaslin Study to a date other than January 22 as he will be absent. He would like to balance the schedule with Councilors' personal schedules. Mayor Muckle stated it can be discussed.

Councilmember Stolzmann stated this can appear as if the process is being manipulated to achieve outcomes. She understood people need to take vacations but if there is a quorum, items should be heard. There is a need to be careful this doesn't get moved to a night where it appears to be a manipulation.

Mayor Pro Tem Lipton stated his intention is not to be manipulative, he would simply like to be in attendance.

Councilmember Maloney would like the discussion of the work plan to be earlier in the month of January.

Councilmember Maloney reported on the City Manager's evaluation process and stated he and Councilmember Loo are looking at potential facilitators for the process. They anticipate starting the process the first week of January. He thanked Deputy City Manager Davis for her help with this process.

Councilmember Leh agreed he would like the work plan be done in the first week of January.

Mayor Muckle asked for an update on the Mayors Commissioners Coalition. Davis stated preparations are being made to meet with the new congressional member, for the D.C. trip, and for the Northwest Rail action plan.

Mayor Muckle reported on the CC4CA steering Committee meeting and its work on a legislative agenda.

ADJOURN

Members adjourned at 10:02 pm.

_____
Robert P. Muckle, Mayor

_____
Meredyth Muth, City Clerk

SUBJECT: **APPROVAL OF DESIGNATION OF PLACES FOR POSTING NOTICES FOR PUBLIC MEETINGS**

DATE: **JANUARY 8, 2019**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**

SUMMARY:
Section 24-6-402(2)(c) of the Colorado Open Meetings Law requires all public bodies of the City designate the public place or places for posting of notices of public meetings. The designation must be made at the local body's first regular meeting of each calendar year. Staff requests City Council approve the following locations for the posting of meeting notices for 2019:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street

Pursuant to the Home Rule Charter, meeting notices and agendas are also published on the City's web site at www.LouisvilleCO.gov.

FISCAL IMPACT:
N/A

PROGRAM/SUB-PROGRAM IMPACT:
The goals of the Governance & Administration Sub-Program include ensuring "inclusive, responsive, transparent, friendly, fiscally responsible, effective, and efficient governance, administration, and support."

RECOMMENDATION:
Approve designation of posting locations as listed above.

ATTACHMENTS:
None.

SUBJECT: **DISTRIBUTION OF 2019 OPEN GOVERNMENT PAMPHLET**

DATE: **JANUARY 8, 2019**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**

SUMMARY:
Section 4-16 (b) of the Home Rule Charter requires the City to "publish and update a pamphlet or other summary of Articles 4 and 5 of this Charter, and other laws relating to citizen participation in municipal government. The pamphlet or summary shall be provided to each member of a public body at its first meeting of the calendar year, and shall be made freely available to citizens on the City's web site, City Hall, City Library and other public places, and at meetings of public bodies."

FISCAL IMPACT:
N/A

PROGRAM/SUB-PROGRAM IMPACT:
The goals of the Governance & Administration Sub-Program include ensuring "inclusive, responsive, transparent, friendly, fiscally responsible, effective, and efficient governance, administration, and support."

RECOMMENDATION:
N/A

ATTACHMENTS:
1. 2019 Open Government Pamphlet

City of Louisville
Open Government & Ethics Pamphlet
2019

City Clerk's Office
749 Main Street
Louisville CO 80027

www.LouisvilleCO.gov
303.335.4536

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Participation in Government

The City of Louisville encourages citizen involvement and participation in its public policy process. There are many opportunities for citizens to be informed about and participate in City activities and decisions. All meetings of City Council, as well as meetings of appointed Boards and Commissions, are open to the public and include an opportunity for public comments on items not on the agenda. No action or substantive discussion on an item may take place unless that item has been specifically listed as an agenda item for a regular or special meeting. Some opportunities for you to participate include:

Reading and inquiring about City Council activities and agenda items, and attending and speaking on topics of interest at public meetings

City Council Meetings:

- Regular meetings are generally held on the first and third Tuesdays of each month at 7:00 PM in the City Council Chambers, located on the second floor of City Hall, 749 Main Street;
- Study sessions are generally held on the second and fourth Tuesdays of each month at 7:00 PM in the Library Meeting Room, located on the first floor of the Library, 951 Spruce Street;
- Regular meetings are broadcast live on Comcast Cable Channel 8 and copies of the meeting broadcasts are available on DVD in the City Manager's Office beginning the morning following the meeting;
- Regular meetings are broadcast live and archived for viewing on the City's website at www.LouisvilleCO.gov.
- Special meetings may be held occasionally on specific topics. Agendas are posted a minimum of 48 hours prior to the meeting.

Meeting agendas for all City Council meetings, other than special meetings, are posted a minimum of 72 hours prior to the meeting at the following locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- City website at www.LouisvilleCO.gov

Meeting packets with all agenda-related materials are available 72 hours prior to each meeting and may be found at these locations:

- Louisville Public Library Reference Area, 951 Spruce Street,
- City Clerk's Office, City Hall, 749 Main Street,
- City website at www.LouisvilleCO.gov

You may receive eNotifications of City Council news as well as meeting agendas and summaries of City Council actions. Visit the City's website (www.LouisvilleCO.gov) and look for the eNotification link to register.

After they are approved by the City Council, meeting minutes of all regular and special meetings are available in the City Clerk's office and on the City's website (www.LouisvilleCO.gov).

Information about City activities and projects, as well as City Council decisions, is included in the *Community Update* newsletter, mailed to all City residents and businesses. Information is also often included in the monthly utility bills mailed to City residents.

Communicating Directly with the Mayor and City Council Members

Contact information for the Mayor and City Council members is available at www.LouisvilleCO.gov, as well as at City Hall, the Louisville Public Library, and the Recreation/Senior Center. You may email the Mayor and City Council as a group at CityCouncil@LouisvilleCO.gov.

Mayor's Town Meetings and City Council Ward Meetings are scheduled periodically. These are informal meetings at which all residents, points of view, and issues are welcome. These meetings are advertised at City facilities and on the City's website (www.LouisvilleCO.gov).

Mayor or City Council Elections

City Council members are elected from three Wards within the City and serve staggered four-year terms. There are two Council representatives from each ward. The mayor is elected at-large and serves a four-year term. City Council elections are held in November of odd-numbered years. For information about City elections, including running for City Council, please contact the City Clerk's Office, first floor City Hall, 749 Main Street, or call 303.335.4571.

Serving as an Appointed Member on a City Board or Commission

The City Council makes Board and Commission appointments annually. Some of the City's Boards and Commissions are advisory, others have some decision-making powers. The City Council refers questions and issues to these appointed officials for input and advice. (Please note the Youth Advisory Board has a separate appointment process.) The City's Boards and Commissions are:

- Board of Adjustment
- Building Code Board of Appeals
- Cultural Council
- Historic Preservation Commission
- Historical Commission
- Housing Authority
- Library Board of Trustees
- Local Licensing Authority

- Open Space Advisory Board
- Parks & Public Landscaping Advisory Board
- Planning Commission
- Recreation Advisory Board
- Revitalization Commission
- Sustainability Advisory Board
- Youth Advisory Board

Information about boards, as well as meeting agendas and schedules for each board, is available on the City's website (www.LouisvilleCO.gov).

Agendas for all Board and Commission meetings are posted a minimum of 72 hours prior to each meeting and are posted at these locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- City web site at www.LouisvilleCO.gov

Copies of complete meeting packets containing all agenda-related materials are available at least 72 hours prior to each meeting and may be found at the following locations:

- Louisville Public Library Reference Area, 951 Spruce Street,
- City Clerk's Office, City Hall, 749 Main Street
- City web site at www.LouisvilleCO.gov

Planning Commission

The Planning Commission evaluates land use proposals against zoning laws and holds public hearings as outlined in City codes. Following a public hearing, the Commission recommends, through a resolution, that the City Council accept or reject a proposal.

- Regular Planning Commission meetings are held at 6:30 PM on the second Thursday of each month. Overflow meetings are scheduled for 6:30 PM on the 4th Thursday of the month as needed, and occasionally Study Sessions are held.
- Regular meetings are broadcast live on Comcast Channel 8 and archived for viewing on the City's website (www.LouisvilleCO.gov).

Open Government Training

All City Council members and members of a permanent Board or Commission are required to participate in at least one City-sponsored open government-related seminar, workshop, or other training program at least once every two years.

Open Meetings

The City follows the Colorado Open Meetings Law ("Sunshine Law") as well as additional open meetings requirements found in the City's Home Rule Charter. These rules and practices apply to the City Council and appointed Boards and Commissions (referred to as a "public body" for ease of reference). Important open meetings rules and practices include the following:

Regular Meetings

All meetings of three or more members of a public body (or a quorum, whichever is fewer) are open to the public.

All meetings of public bodies must be held in public buildings and public facilities accessible to all members of the public.

All meetings must be preceded by proper notice. Agendas and agenda-related materials are posted at least 72 hours in advance of the meeting at the following locations:

- City Hall, 749 Main Street
- Police Department/Municipal Court, 992 West Via Appia
- Recreation/Senior Center, 900 West Via Appia
- Louisville Public Library, 951 Spruce Street
- On the City web site at www.LouisvilleCO.gov

Study Sessions

Study sessions are also open to the public. However, study sessions have a limited purpose:

- Study sessions are to obtain information and discuss matters in a less formal atmosphere;
- No preliminary or final decision or action may be made or taken at any study session; further, full debate and deliberation of a matter is to be reserved for formal meetings; If a person believes in good faith that a study session is proceeding contrary to these limitations, he or she may submit a written objection. The presiding officer will then review the objection and determine how the study session should proceed.
- Like formal meetings, a written summary of each study session is prepared and is available on the City's website.

Executive Sessions

The City Charter also sets out specific procedures and limitations on the use of executive sessions. These rules, found in Article 5 of the Charter, are intended to further the City policy that the activities of City government be conducted in public to the greatest extent feasible, in order to assure public participation and enhance public accountability. The City's rules regarding executive sessions include the following:

Timing and Procedures

The City Council and City Boards and Commissions may hold an executive session only at a regular or special meeting.

No formal action of any type, and no informal or "straw" vote, may occur at any executive session. Rather, formal

actions, such as the adoption of a proposed policy, position, rule or other action, may only occur in open session.

Prior to holding an executive session, there must be a public announcement of the request and the legal authority for convening in closed session. There must be a detailed and specific statement as to the topics to be discussed and the reasons for requesting the session.

The request must be approved by a supermajority (two-thirds of the full Council, Board, or Commission). Prior to voting on the request, the clerk reads a statement of the rules pertaining to executive sessions. Once in executive session, the limitations on the session must be discussed and the propriety of the session confirmed. If there are objections and/or concerns over the propriety of the session, those are to be resolved in open session.

Once the session is over, an announcement is made of any procedures that will follow from the session.

Executive sessions are recorded, with access to those tapes limited as provided by state law. Those state laws allow a judge to review the propriety of a session if in a court filing it is shown that there is a reasonable belief that the executive session went beyond its permitted scope. Executive session records are not available outside of a court proceeding.

Authorized Topics

For City Council, an executive session may be held only for discussion of the following topics:

- Matters where the information being discussed is required to be kept confidential by federal or state law;
- Certain personnel matters relating to employees directly appointed by the Council, and other personnel matters only upon request of the City Manager or Mayor for informational purposes only;
- Consideration of water rights and real property acquisitions and dispositions, but only as to appraisals and other value estimates and strategy for the acquisition or disposition; and
- Consultation with an attorney representing the City with respect to pending litigation. This includes cases that are actually filed as well as situations where the person requesting the executive session believes in good faith that a lawsuit may result, and allows for discussion of settlement strategies.

The City's Boards and Commissions may only hold an executive session for consultation with its attorney regarding pending litigation.

Ethics

Ethics are the foundation of good government. Louisville has adopted its own Code of Ethics, which is found in the City Charter and which applies to elected officials, public body members, and employees. The Louisville Code of Ethics applies in addition to any higher standards in state law. Louisville's position on ethics is perhaps best summarized in the following statement taken from the City Charter:

> *Those entrusted with positions in the City government must commit to adhering to the letter and spirit of the Code of Ethics. Only when the people are confident that those in positions of public responsibility are committed to high levels of ethical and moral conduct, will they have faith that their government is acting for the good of the public. This faith in the motives of officers, public body members, and employees is critical for a harmonious and trusting relationship between the City government and the people it serves.*

The City's Code of Ethics (Sections 5-6 though 5-17 of the Charter) is summarized in the following paragraphs. While the focus is to provide a general overview of the rules, it is important to note that all persons subject to the Code of Ethics must strive to follow both the letter and the spirit of the Code, so as to avoid not only actual violations, but public perceptions of violations. Indeed, perceptions of violations can have the same negative impact on public trust as actual violations.

Conflicts of Interest

One of the most common ethical rules visited in the local government arena is the "conflict of interest rule." While some technical aspects of the rule are discussed below, the general rule under the Code of Ethics is that if a Council, Board, or Commission member has an "interest" that will be affected by his or her "official action," then there is a conflict of interest and the member must:

- Disclose the conflict, on the record and with particularity;
- Not participate in the discussion;
- Leave the room; and
- Not attempt to influence others.

An "interest" is a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss. However, an "interest" does not include any matter conferring similar benefits on all property or persons similarly situated. (Therefore, a City Council member is not prohibited from voting on a sales tax increase or decrease if the member's only interest is that he or she, like other residents, will be subject to the higher or lower tax.) Additionally, an "interest" does not include a stock interest of less than one percent of the company's outstanding shares.

The Code of Ethics extends the concept of prohibited interest to persons or entities with whom the member is associated. In particular, an interest of the following persons and entities is also an interest of the member: relatives (including persons related by blood or marriage to certain

degrees, and others); a business in which the member is an officer, director, employee, partner, principal, member, or owner; and a business in which member owns more than one percent of outstanding shares.

The concept of an interest in a business applies to profit and nonprofit corporations, and applies in situations in which the official action would affect a business competitor. Additionally, an interest is deemed to continue for one year after the interest has ceased. Finally, "official action" for purposes of the conflict of interest rule, includes not only legislative actions, but also administrative actions and "quasi-judicial" proceedings where the entity is acting like a judge in applying rules to the specific rights of individuals (such as a variance request or liquor license). Thus, the conflict rules apply essentially to all types of actions a member may take.

Contracts

In addition to its purchasing policies and other rules intended to secure contracts that are in the best interest of the City, the Code of Ethics prohibits various actions regarding contracts. For example, no public body member who has decision-making authority or influence over a City contract can have an interest in the contract, unless the member has complied with the disclosure and recusal rules. Further, members are not to appear before the City on behalf of other entities that hold a City contract, nor are they to solicit or accept employment from a contracting entity if it is related to the member's action on a contract with that entity.

Gifts and Nepotism

The Code of Ethics, as well as state law, regulates the receipt of gifts. City officials and employees may not solicit or accept a present or future gift, favor, discount, service or other thing of value from a party to a City contract, or from a person seeking to influence an official action. There is an exception for the "occasional nonpecuniary gift" of $15 or less, but this exception does not apply if the gift, no matter how small, may be associated with the official's or employee's official action, whether concerning a contract or some other matter. The gift ban also extends to independent contractors who may exercise official actions on behalf of the City.

The Code of Ethics also prohibits common forms of nepotism. For example, no officer, public body member, or employee shall be responsible for employment matters concerning a relative. Nor can he or she influence compensation paid to a relative, and a relative of a current officer, public body member or employee cannot be hired unless certain personnel rules are followed.

Other Ethics Rules of Interest

Like state law, Louisville's Code of Ethics prohibits the use of non-public information for personal or private gain. It also prohibits acts of advantage or favoritism and, in that regard, prohibits special considerations, use of employee time for personal or private reasons, and use of City vehicles or equipment, except in same manner as available to any other person (or in manner that will substantially benefit City). The City also has a "revolving door" rule that prohibits elected officials from becoming City employees either during their time in office or for two years after leaving office. These and other rules of conduct are found in Section 5-9 of the Code of Ethics.

Disclosure, Enforcement, and Advisory Opinions

The Code of Ethics requires that those holding or running for City Council file a financial disclosure statement with the City Clerk. The statement must include, among other information, the person's employer and occupation, sources of income, and a list of business and property holdings.

The Code of Ethics provides fair and certain procedures for its enforcement. Complaints of violations may be filed with the City prosecutor; the complaint must be a detailed written and verified statement. If the complaint is against an elected or appointed official, it is forwarded to an independent judge who appoints a special, independent prosecutor for purposes of investigation and appropriate action. If against an employee, the City prosecutor will investigate the complaint and take appropriate action. In all cases, the person who is subject to the complaint is given the opportunity to provide information concerning the complaint.

Finally, the Code allows persons who are subject to the Code to request an advisory opinion if they are uncertain as to applicability of the Code to a particular situation, or as to the definition of terms used in the Code. Such requests are handled by an advisory judge, selected from a panel of independent, disinterested judges who have agreed to provide their services. This device allows persons who are subject to the Code to resolve uncertainty before acting, so that a proper course of conduct may be identified. Any person who requests and acts in accordance with an advisory opinion issued by an advisory judge is not subject to City penalty, unless material facts were omitted or misstated in the request. Advisory opinions are posted for public inspection; the advisory judge may order a delay in posting if the judge determines the delay is in the City's best interest.

Citizens are encouraged to contact the City Manager's Office with any questions about the City's Code of Ethics. A copy of the Code is available at the City's website (www.LouisvilleCO.gov) and also from the Offices of the City Manager and City Clerk.

Other Laws on Citizen Participation in Government

Preceding sections of this pamphlet describe Louisville's own practices intended to further citizen participation in government. Those practices are generally intended to further dissemination of information and participation in the governing process. Some other laws of interest regarding citizen participation include:

Initiative and Referendum

The right to petition for municipal legislation is reserved to the citizens by the Colorado Constitution and the City Charter. An initiative is a petition for legislation brought directly by the citizens; a referendum is a petition brought by the citizens to refer to the voters a piece of legislation that has been approved by the City Council. In addition to these two petitioning procedures, the City Council may refer matters directly to the voters in the absence of any petition. Initiative and referendum petitions must concern municipal legislation—as opposed to administrative or other non-legislative matters. By law the City Clerk is the official responsible for many of the activities related to a petition process, such as approval of the petition forms, review of the signed petitions, and consideration of protests and other matters. There are minimum signature requirements for petitions to be moved to the ballot; in Louisville, an initiative petition must be signed by at least five percent of the total number of registered electors. A referendum petition must be signed by at least two and one-half percent of the registered electors.

Public Hearings

In addition to the opportunity afforded at each regular City Council meeting to comment on items not on the agenda, most City Council actions provide opportunity for public comment through a public hearing process. For example, the City Charter provides that a public hearing shall be held on every ordinance before its adoption. This includes opportunities for public comment prior to initial City Council discussion of the ordinance, as well as after Council's initial discussion but before action. Many actions of the City are required to be taken by ordinance, and thus this device allows for citizen public hearing comments on matters ranging from zoning ordinances to ordinances establishing offenses that are subject to enforcement through the municipal court.

Additionally, federal, state, and/or local law requires a public hearing on a number of matters irrespective of whether an ordinance is involved. For example, a public hearing is held on the City budget, the City Comprehensive Plan and similar plans, and a variety of site-specific or person-specific activities, such as annexations of land into the city, rezonings, special use permits, variances, and new liquor licenses. Anyone may provide comments during these hearings.

Public Records

Access to public records is an important aspect of citizen participation in government. Louisville follows the Colorado Open Records Act (CORA) and the additional public records provisions in the City Charter. In particular, the Charter promotes the liberal construction of public records law, so as to promote the prompt disclosure of City records to citizens at no cost or no greater cost than the actual costs to the City.

The City Clerk is the custodian of the City's public records, except for financial, personnel, and police records which are handled, respectively, by the Finance, Human Resources, and Police Departments. The City maintains a public policy on access to public records, which include a records request form, a statement of fees, and other guidelines. No fee is charged for the inspection of records. No fee is charged for locating or making records available for copying, except in cases of voluminous requests or dated records, or when the time spent in locating records exceeds two hours. No fees are charged for the first 25 copies requested or for electronic records.

Many records, particularly those related to agenda items for City Council and current Board and Commission meetings, are available directly on the City's website (www.LouisvilleCO.gov). In addition to posting agenda-related material, the City maintains communication files for the City Council and Planning Commission. These are available for public inspection at the City Clerk's Office, 749 Main Street.

CORA lists the categories of public records that are not generally open to public inspection. These include, for example, certain personnel records and information, financial and other information about users of city facilities, privileged information, medical records, letters of reference, and other items listed in detail in CORA. When public records are not made available, the custodian will specifically advise the requestor of the reason.

Citizens are encouraged to review the City's website (www.LousivilleCo.gov) for information, and to contact the City with any questions regarding City records.

Public Involvement Policy

Public participation is an essential element of the City's representative form of government. To promote effective public participation City officials, advisory board members, staff and participants should all observe the following guiding principles, roles and responsibilities:

Guiding Principles for Public Involvement

Inclusive not Exclusive - Everyone's participation is

welcome. Anyone with a known interest in the issue will be identified, invited and encouraged to be involved early in the process.

Voluntary Participation - The process will seek the support of those participants willing to invest the time necessary to make it work.

Purpose Driven - The process will be clearly linked to when and how decisions are made. These links will be communicated to participants.

Time, Financial and Legal Constraints - The process will operate within an appropriate time frame and budget and observe existing legal and regulatory requirements.

Communication - The process and its progress will be communicated to participants and the community at-large using appropriate methods and technologies.

Adaptability - The process will be adaptable so that the level of public involvement is reflective of the magnitude of the issue and the needs of the participants.

Access to Information -The process will provide participants with timely access to all relevant information in an understandable and user-friendly way. Education and training requirements will be considered.

Access to Decision Making - The process will give participants the opportunity to influence decision making.

Respect for Diverse Interests - The process will foster respect for the diverse values, interests and knowledge of those involved.

Accountability - The process will reflect that participants are accountable to both their constituents and to the success of the process.

Evaluation - The success and results of the process will be measured and evaluated.

Roles and Responsibilities - City Council

City Council is ultimately responsible to all the citizens of Louisville and must weigh each of its decisions accordingly. Councilors are responsible to their local constituents under the ward system; however they must carefully consider the concerns expressed by all parties. Council must ultimately meet the needs of the entire community—including current and future generations—and act in the best interests of the City as a whole.

During its review and decision-making process, Council has an obligation to recognize the efforts and activities that have preceded its deliberations. Council should have regard for the public involvement processes that have been completed in support or opposition of projects.

Roles and Responsibilities - City Staff and Advisory Boards

The City should be designed and run to meet the needs and priorities of its citizens. Staff and advisory boards must ensure that the Guiding Principles direct their work. In addition to the responsibilities established by the Guiding Principles, staff and advisory boards are responsible for:

- ensuring that decisions and recommendations reflect the needs and desires of the community as a whole;
- pursuing public involvement with a positive spirit because it helps clarify those needs and desires and also adds value to projects;
- fostering long-term relationships based on respect and trust in all public involvement activities;
- encouraging positive working partnerships;
- ensuring that no participant or group is marginalized or ignored;
- drawing out the silent majority, the voiceless and the disempowered; and being familiar with a variety of public involvement techniques and the strengths and weaknesses of various approaches.

All Participants

The public is also accountable for the public involvement process and for the results it produces. All parties (including Council, advisory boards, staff, proponents, opponents and the public) are responsible for:

- working within the process in a cooperative and civil manner;
- focusing on real issues and not on furthering personal agendas;
- balancing personal concerns with the needs of the community as a whole;
- having realistic expectations;
- participating openly, honestly and constructively, offering ideas, suggestions and alternatives;
- listening carefully and actively considering everyone's perspectives;
- identifying their concerns and issues early in the process;
- providing their names and contact information if they want direct feedback;
- remembering that no single voice is more important than all others, and that there are diverse opinions to be considered;
- making every effort to work within the project schedule and if this is not possible, discussing this with the proponent without delay;
- recognizing that process schedules may be constrained by external factors such as limited funding, broader project schedules or legislative requirements;
- accepting some responsibility for keeping themselves aware of current issues, making others aware of project activities and soliciting their involvement and input; and
- considering that the quality of the outcome and how that outcome is achieved are both important.

Updated December 2015

This pamphlet is prepared pursuant to the Home Rule Charter of the City of Louisville.

This is a compilation of Articles 4 and 5 of the Charter of the City of Louisville and is available at all times in the City Clerk's Office, 749 Main Street, Louisville, Colorado, and on the City's web site at www.LouisvilleCO.gov.

This pamphlet is also provided to every member of a public body (board or commission) at that body's first meeting each year.

SUBJECT: **APPROVAL OF LOUISVILLE/LAFAYETTE QUIET ZONE PROJECT CONSTRUCTION CONTRACT**

i. APPROVAL OF RESOLUTION NO. 1, SERIES 2019 – A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR SHARING OF COSTS OF QUIET ZONE PROJECT CONSTRUCTION SERVICES BETWEEN THE CITY OF LOUISVILLE AND THE CITY OF LAFAYETTE

ii. APPROVAL OF RESOLUTION NO. 2, SERIES 2019 – A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND NORAA CONCRETE CONSTRUCTION CORPORATION FOR CONSTRUCTION SERVICES FOR THE LOUISVILLE-LAFAYETTE QUIET ZONE PROJECT

DATE: **JANUARY 8, 2019**

PRESENTED BY: **KURT KOWAR, PUBLIC WORKS DEPARTMENT**

SUMMARY:
Staff advertised the roadway construction component of the City of Louisville/City of Lafayette Railroad Quiet Zone project in October. Bids received are as follows:

Noraa Concrete	$375,922.20
KECI	$384,881.50
Goodland Construction	$382,027.65
Jalisco	$424,840.10
TCI	$436,489.00
Colt & Steel	$443,911.34

The Public Works Department recommends approval of a contract with Noraa Concrete Construction Corporation per their low bid of $375,922.20. In addition, Staff is requesting approval of 15% contingency funds, in the amount of $56,389.00.

FISCAL IMPACT:
Staff Recommended:

2018 Budget	Account	Amount
Quiet Zones (Original Construction Budget)	301311-660202 (2231550.64)	$2,062,670.00
November Budget Amendment	301312-660202	$507,650.00
Total 2018 Funding		**$2,570,320.00**
Roadway Construction Contract		$375,922.20
Contingency		$56,389.00
Total Roadway Construction Costs		**$432,311.20**
Remaining		**$2,138,008.80**

The engineer's estimate for the four crossings that fall under the CDOT Grant Agreement is $462,339 for Roadway Items and $1,637,462 for the Railroad Items for a total of $2,099,801. The cost of the Roadway construction contract and contingency is slightly below the engineer's estimate for the Roadway Items. The engineer's estimate for the Railroad Items is still somewhat preliminary as the BNSF has not provided the cost estimates for South Boulder Road. The engineer's estimate for the Dillon Road Improvements is $630K. This estimate is also preliminary as the BNSF has not yet provided the cost estimate for Dillon Road.

SCHEDULE:
CDOT will provide the City with a notice to proceed when they receive the railroad clearance signed by the BNSF. If the last two cost estimates from BNSF are received in January, a final ruling by the PUC may be received in March per the PUC's 60-day review process. Construction could occur shortly after CDOT receives railroad clearance.

LAFAYETTE IGA:
An IGA with the City of Lafayette was previously approved for cost sharing of design services with Lafayette assigned 25% of local agency matching fund costs and 75% to Louisville. This IGA was for the design period only. A new IGA is needed to cover construction cost sharing. The Construction IGA assigns actual construction costs at the Baseline Road Crossing to Lafayette and construction costs of the remaining crossings to Louisville. The City Attorney has reviewed and approved the IGA. The Lafayette City Attorney has reviewed and approved the Louisville/Lafayette IGA.

PROGRAM/SUB-PROGRAM IMPACT:
The recommended contract supports the goal of safe traveling conditions for pedestrians and motorists.

RECOMMENDATION:
Staff recommends City Council pass Resolution No. 1, Series 2019 authorizing the Mayor to sign the attached intergovernmental agreement for cost sharing with the City of Lafayette on behalf of the City.

Staff recommends City Council approve Resolution No. 2, Series 2019 awarding the City of Louisville/City of Lafayette Railroad Quiet Zone project to Noraa Concrete per their bid of $375,922.20, authorize staff to execute change orders up to $56,389.00 as a 15% project contingency, and authorize the Mayor, City Manager, Public Works Director and City Clerk to sign and execute contract documents on behalf of the City.

ATTACHMENT(S):
1. Resolution Approving IGA
2. IGA with City of Lafayette
3. Resolution Approving Cost Sharing of NORAA Contract
4. NORAA Agreement

RESOLUTION NO. 1
SERIES 2019

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR SHARING OF COSTS OF QUIET ZONE PROJECT CONSTRUCTION SERVICES BETWEEN THE CITY OF LOUISVILLE AND THE CITY OF LAFAYETTE

WHEREAS, the cities of Louisville and Lafayette (the "Parties") desire to establish a quiet zone area along the BNSF rail line from Baseline Road in Lafayette to Pine Street in Louisville, which will include improvements at four highway rail crossings, three of which are in Louisville and one of which is at Baseline Road in Lafayette (the "Project"); and

WHEREAS, the Project consists of two phases: (1) a "Design Phase," which consists of engineering, design and permitting for the four quiet zone locations and which was completed in 2018; and (2) a "Construction Phase," which will consist of the construction of the quiet zone improvements and which is intended to be completed in 2019; and

WHEREAS, Louisville has applied for and received or will receive a federal Surface Transportation Improvement Program grant of an estimated amount of $1,556,138 (the "Grant") to complete the Design and Construction Phases of the Project and has or will enter into a grant agreement with the Colorado Department of Transportation ("CDOT") for the Project; and

WHEREAS, the Grant requires a local match of an estimated amount of $323,483 in matching funds as a condition of receiving the Grant; and

WHEREAS, on February 21, 2017, the Parties entered into an IGA confirming their intent to undertake the Project addressing the sharing of costs for the Design Phase of the Project, and acknowledging the Parties' intent to enter into a future agreement to address the Construction Phase of the Project; and

WHEREAS, C.R.S. § 29-1-201, et seq., authorizes and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with one another to provide any function, service, or facility lawfully authorized to each, including contracting for the sharing of costs; and

WHEREAS, there has been proposed an Intergovernmental Agreement for Sharing of Costs of Quiet Zone Project Construction Services ("Agreement") to identify the allocation of the cost of local matching funds for the Construction Phase of the Project, and to establish the process by which such allocation and payment of matching funds will be accomplished; and

WHEREAS, per the Agreement, Louisville will oversee the completion of the Construction Phase of the Project, will be the lead agency with respect to contracting and communicating with CDOT, and will be solely responsible for all contracting, supervisory and administrative matters

related to execution of the Grant and completion of the Construction Phase; and

WHEREAS, the City Council finds that the proposed Agreement is in the best interests of the City and its citizens, and by this resolution desires to approve the Agreement and authorize its execution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

1. The City Council hereby approves that certain Intergovernmental Agreement for Sharing of Costs of Quiet Zone Project Construction Services between the City of Louisville and the City of Lafayette to identify the allocation of the cost of local matching funds for the Construction Phase of the Project, and to establish the process by which such allocation and payment of matching funds will be accomplished (the "Agreement"). A copy of the Agreement is attached hereto and incorporated herein by this reference.

2. The Mayor is hereby authorized to execute the Agreement on behalf of the City Council of the City of Louisville, except that the Mayor and the City Manager are hereby further authorized to negotiate and approve such revisions to the Agreement as the Mayor or City Manager determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

3. The Mayor, City Manager and City staff are hereby authorized to execute all documents and do all other things necessary on behalf of the City to perform the obligations of the City under the Agreement, including but not limited to execution of all certifications, forms, memoranda of understanding, and other documents required in connection with the Agreement and project.

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PASSED AND ADOPTED this 8th day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

INTERGOVERNMENTAL AGREEMENT
FOR SHARING OF COSTS OF QUIET ZONE PROJECT CONSTRUCTION SERVICES

THIS AGREEMENT is made this _____ day of _____, 2019 by and between the City of Lafayette, a Colorado home rule municipality ("Lafayette"), and the City of Louisville, a Colorado home rule municipality ("Louisville"), each a "Party" and collectively the "Parties."

WHEREAS, the Parties are authorized by § 29-1-203, C.R.S. as amended, to enter into contracts or agreements for the sharing of costs; and

WHEREAS, C.R.S. § 29-1-201, et seq., authorizes and encourages local governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, in accordance with § 29-1-203, C.R.S. as amended, each of the Parties is authorized to enter into this Agreement; and

WHEREAS, the Parties desire to establish a quiet zone area along the BNSF rail line from Baseline Road in Lafayette to Pine Street in Louisville, which will include improvements at four highway rail crossings, three of which are in Louisville and a fourth crossing at Baseline Road in Lafayette (the "Project"); and

WHEREAS, the Project consists of the following two phases: (1) a "Design Phase," which consists of the engineering, design and permitting for the four quiet zone locations and which is intended to be completed in 2018; and (2) a "Construction Phase," which will consist of the construction of the quiet zone improvements and which is intended to be completed in 2019; and

WHEREAS, Louisville has applied for and received or will receive a federal Surface Transportation Improvement Program grant of an estimated amount of $1,556,138 (the "Grant") to complete the Design and Construction Phases of the Project and has or will enter into a Grant agreement with the Colorado Department of Transportation ("CDOT") for the Project; and

WHEREAS, the Grant requires a local match of an estimated amount of $323,483 in matching funds as a condition of receiving the Grant; and

WHEREAS, on February 21, 2017, the Parties entered into an IGA confirming their intent to undertake the Project addressing the sharing of costs for the Design Phase of the Project, and acknowledging the Parties' intent to enter into a future agreement to address the Construction Phase of the Project; and

WHEREAS, the Parties desire by this Agreement to identify the allocation of the cost of local matching funds for the Construction Phase of the Project, and to establish the process by which such allocation and payment of matching funds will be accomplished.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. Incorporation of Recitals. The Parties confirm and incorporate the foregoing recitals into this Agreement.

2. Responsibilities of Louisville. Louisville will oversee the completion of the Construction Phase of the Project, will be the lead agency with respect to contracting and communicating with CDOT, and shall be solely responsible for all contracting, supervisory and administrative matters related to execution of the Grant and completion of the Construction Phase. Louisville will advise Lafayette of the timeline for the Construction Phase, will provide Lafayette a copy of Louisville's agreement with the contractor engaged to complete the Construction Phase, will provide updates of the progress on the Construction Phase upon request, and will provide Lafayette copies of all as-built drawings, plans and other materials prepared by the contractor for the Construction Phase.

3. Project Costs. The Parties agree that $1,266,373 in Grant funds shall be applied toward the Construction Phase ("Construction Phase Grant Funds"). Construction Phase Grant Funds shall be credited proportionately across the cost of constructing each of the crossings, based on the actual construction cost of such crossing. For example, if the actual cost of constructing the crossing at Baseline Road equates to one-sixth (1/6) of the actual total cost of the Construction Phase of the Project, then one-sixth (1/6) of the Construction Phase Grant Funds shall be credited to the construction of the crossing at Baseline Road. Lafayette agrees to pay the total cost of construction of the crossing at Baseline Road, minus the Construction Phase Grant Funds credited to that portion of the Project ("Lafayette Share"). Louisville agrees to pay for the total construction costs of the three (3) crossings within City of Louisville municipal limits, minus the Construction Phase Grant Funds credited to those portions of the Project ("Louisville Share").

4. Reimbursement of Costs. When construction of the Project has been completed, Louisville shall calculate, and send Lafayette an invoice for, the Lafayette Share, including copies of invoices and pay applications received from the contractor, and an accounting of how the Lafayette share was calculated. Lafayette agrees to pay such invoice within 30 days of receipt.

5. Cooperation.

a. In the performance of this Agreement or in considering any requested approval, acceptance, or extension of time, the Parties each agree that they will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement. Each Party shall promptly provide any information, approval or document necessary for implementation of this Agreement. Each Party will execute such additional documents and agreements as necessary to effectuate the Project, including but not limited to cooperating to obtain all required PUC and BNSF approvals, permits and agreements required for the Project. Each Party shall issue those street cut permits, access permits and other procedural or substantive permits and approvals that are necessary for the Project, which permits and approval are not to be conditioned on payment of any fees or costs other than administrative costs for processing. Louisville shall provide periodic progress reports to

Lafayette on the Project and related matters. Each Party shall provide to the other at no additional costs copies of any contracts, drawings, applications for payments, invoices, billing records and other records related to the Project.

b. While Louisville will be the lead agency, both Parties will mutually participate with the contractor in the performance of the Construction Phase of the Project. Louisville shall provide to Lafayette copies of the proposed construction plans for Project. Construction plans for the Baseline Road Crossing shall be approved in writing by Lafayette. Both Parties shall be present during all meetings with the construction contractor to provide input unless the Parties agree in writing that one of the Party's presence is not required.

6. Contact Persons. The contact persons for administering this Agreement shall be the Public Works Director of each Party. Any approval hereunder required of a Party of any drawings, designs or specifications may be granted or withheld by a writing issued by the Public Works Director of such Party.

7. Cost Recovery. This Agreement is not intended and shall not be construed to affect either Party's ability to obtain cost recovery payments for the Project from developments within their respective jurisdictions.

8. No Third Party Beneficiaries. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

9. Assignment. This Agreement shall not be assigned by either Party without the prior written consent of the other Party.

10. Insurance. Each Party agrees, at all times during the term of this Agreement, to maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, ("Act") C.R.S. § 24-10-101, et seq. as may be amended, and nothing herein shall be deemed a waiver of the protections, limitations and immunities afforded the Parties by the Act. Each Party agrees to show proof of such insurance upon request by the other Party.

11. Default and Right to Cure. In the event that either Party shall be in default of this Agreement, the other Party shall provide notice to the defaulting Party specifically describing the default. The Party allegedly in default shall have 30 days from the date of such notice to cure the default. If such default is not so cured then at the election of the non-defaulting Party, this Agreement may be terminated unilaterally by the non-defaulting Party or the non-defaulting Party may pursue an action for specific performance, damages, or both.

12. Integration and Amendment. This Agreement represents the entire agreement between the Parties as to the Construction Phase of the Project and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any provision of this Agreement is held invalid or unenforceable, no other

provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

13. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

14. Effective Date; Term. The effective date of this Agreement shall be the last date on which the Parties' respective governing bodies have approved the Agreement, as set forth below. This Agreement shall remain in effect through completion of the Construction Phase of the Project, unless sooner terminated by mutual written agreement.

15. Appropriations. All financial obligations of both Parties for years beyond 2019 shall be subject to the annual appropriation of Project funds by their respective city councils.

16. Non-Substantive Amendments. This Agreement has been approved in substantially the same form submitted to the local governing bodies of the Parties. The Parties' mayors executing this Agreement are authorized to approve non-substantive administrative amendments to the Agreement, if upon the recommendation of each Parties' staff, the Mayors deem such amendments necessary and in compliance with the Grant and CDOT requirements.

17. Costs. Each Party shall be responsible for its own legal, accounting, overhead and administrative staffing costs incurred in the negotiation, drafting or performance of this Agreement.

18. Responsibility for Legal Proceedings. Lafayette shall be responsible for defending itself, its officers, and employees in any civil action brought against Lafayette, its officers and employees by any person claiming injury and damages as a result of the performance of this Agreement. Likewise, Louisville shall be responsible for defending itself, its officers, and employees in any civil action brought against Louisville, its officers, and employees by any person claiming injury and damages as a result of this Agreement. Lafayette, its officers, and employees shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of Louisville or any officer or employee thereof, arising out of the performance of this Agreement. Likewise, Louisville, its officers, and employees shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of Lafayette or any officer or employee thereof, arising out of the performance of this Agreement.

19. No Joint Venture or Partnership. Nothing contained in this Agreement is intended to create a partnership or joint venture between Lafayette and Louisville and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the Parties of any activity, function or service, nor does it create a joint enterprise, nor does it authorize any Party hereto to act as an agent of the other Party for any purpose whatsoever.

CITY OF LAFAYETTE

By:_____
Christine Berg, Mayor

ATTEST:

_____
Susan Koster, CMC, City Clerk

Date: _____

CITY OF LOUISVILLE

By:_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

Date: _____

RESOLUTION NO. 2
SERIES 2019

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND NORAA CONCRETE CONSTRUCTION CORPORATION FOR CONSTRUCTION SERVICES FOR THE LOUISVILLE-LAFAYETTE QUIET ZONE PROJECT

WHEREAS, the City issued an Invitation to Bid for construction services for the construction phase of the Louisville-Lafayette Quiet Zone Project, which includes asphalt removal and reconstruction, concrete sidewalk construction, curb and gutter removal/replacement, median construction, patching, leveling, pavement marking, signing and traffic control, and all work appurtenant thereto, on Pine Street, Griffith Street and South Boulder Road in the vicinity of the BNSF Railway track crossing within the City of Louisville, Colorado, and on Baseline Road within the City of Lafayette (the "Project"); and

WHEREAS, City staff advertised the Project and received six (6) bids, which bids have been reviewed by the City's Public Works Department; and

WHEREAS, the Public Works Department recommends approval of a contract with NORAA Concrete Construction Corporation ("NORAA") per their low bid of $375,922.20; and

WHEREAS, a contract between the City and NORAA has been proposed for such purpose (the "Contract"); and

WHEREAS, the City Council finds that the proposed Contract is in the best interests of the City and its citizens, and by this resolution desires to approve the Contract and authorize its execution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

1. The City Council hereby approves that certain Agreement by and between the City of Louisville and NORAA Concrete Construction Corporation for Construction Services for the Louisville-Lafayette Quiet Zone Project (the "Contract"), in essentially the same form as the copy of such Contract accompanying this Resolution.

2. The Director of Public Works is hereby authorized to execute change orders in accordance with the terms of the Contract, up to a total not to exceed $56,389.00; and

3. The Mayor and City Clerk are hereby authorized to execute the Contract on behalf of the City Council of the City of Louisville, except that the Mayor is hereby further authorized to negotiate and approve such revisions to the Contract as the Mayor determines are necessary or

desirable for the protection of the City, so long as the essential terms and conditions of the Contract are not altered.

4. The Mayor, City Manager, and City staff are hereby authorized to execute all documents and do all other things necessary on behalf of the City to provide for performance of the obligations of the City under the Contract, including but not limited to execution of all certifications, forms and other documents required in connection with the Contract and completion of the Project design.

PASSED AND ADOPTED this 8th day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

AGREEMENT

THIS AGREEMENT is made and entered into this _____day of _____ in the year 2019 by and between:

CITY OF LOUISVILLE, COLORADO
(hereinafter called OWNER)

and

NORAA CONCRETE CONSTRUCTION CORPORATION

(hereinafter called CONTRACTOR)

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows.

ARTICLE 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

PROJECT: 2018 LOUISVILLE-LAFAYETTE QUIET ZONE PROJECT
PROJECT NUMBER: STU M825-013

ARTICLE 2. CONTRACT TIMES

2.1 The CONTRACTOR shall substantially complete all work by _____ and within **50 Contract Days** after the date when the Contract Time commences to run. The Work shall be completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions within **50 Contract Days** after the date when the Contract Times commence to run. The Contract Times shall commence to run on the day indicated in the Notice to Proceed.

2.2 LIQUIDATED DAMAGES. The OWNER and the CONTRACTOR agree and recognize that time is of the essence in this contract and that the OWNER will suffer financial loss if the Work is not substantially complete by the date specified in paragraph 2.1 above, plus any extensions thereof allowed in accordance with the Article 12 of the General Conditions. OWNER and CONTRACTOR also agree that such damages are uncertain in amount and difficult to measure accurately. Accordingly, the OWNER and CONTRACTOR agree that as liquidated damages, and not as a penalty, for delay in performance the CONTRACTOR shall pay the OWNER **ONE THOUSAND DOLLARS ($1,000)** for each and every **Contract Day** and portion thereof that expires after the time specified above for substantial completion of the Work until the same is finally complete and ready for final payment. The liquidated damages herein specified shall only apply to the CONTRACTOR's delay in performance, and shall not include litigation or attorneys' fees incurred by the OWNER, or other incidental or consequential damages suffered by the OWNER due to the CONTRACTOR's performance. If the OWNER charges liquidated damages to the CONTRACTOR, this shall not preclude the OWNER from commencing an action against the CONTRACTOR for other actual harm resulting from the CONTRACTOR's performance, which is not due to the CONTRACTOR's delay in performance.

ARTICLE 3. CONTRACT PRICE

3.1 The OWNER shall pay in current funds, and the CONTRACTOR agrees to accept in full payment for performance of the Work, subject to additions and deductions from extra and/or omitted work and determinations of actual quantities as provided in the Contract Documents, the Contract Price of three hundred seventy five thousand nine hundred twenty two dollars and twenty cents ($375,922.20) as set forth in the Bid Form dated November 8, 2018.

As provided in paragraph 11.9 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.10 of the General Conditions. Unit prices have been computed as provided in paragraph 11.9 of the General Conditions.

ARTICLE 4. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by OWNER as provided in the General Conditions.

4.1 PROGRESS PAYMENTS. OWNER shall make progress payments on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the third Wednesday of each month during construction as provided below. All progress payments will be on the basis of the progress of the Unit Price Work based on the number of units completed as provided in the General Conditions.

4.1.1.1 Prior to final completion and acceptance, progress payments will be made in the amount equal to 95 percent of the calculated value of completed Work, and/or 95 percent of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in 14.2 of the General Conditions), but in each case, less the aggregate of payments previously made and such less amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

If OWNER finds that satisfactory progress is being made in any phase of the Work, it may, in its discretion and upon written request by the CONTRACTOR, authorize final payment from the withheld percentage to the CONTRACTOR or subcontractors who have completed their work in a manner finally acceptable to the OWNER. Before any such payment may be made, the OWNER must, in an exercise of its discretion, determine that satisfactory and substantial reasons exist for the payment and there must be provided to the OWNER written approval from any surety furnishing bonds for the Work.

Nothing contained in this provision shall preclude the OWNER and CONTRACTOR from making other arrangements consistent with C.R.S. 24-91-105 prior to contract award.

4.2 FINAL PAYMENT. Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, OWNER shall pay the remainder of the Contract Price as provided in said paragraph 14.13 of the General Conditions.

ARTICLE 5. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

5.1 CONTRACTOR has examined and carefully studied the Contract Documents, (including the Addenda listed in paragraph 6.10) and the other related data identified in the Bidding Documents including "technical".

5.2 CONTRACTOR has inspected the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

5.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and furnishing of the Work.

5.4 CONTRACTOR has carefully studied all reports of exploration and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions relating to surface or subsurface structures at or contiguous to the site (Except Underground facilities) which have been identified in the General Conditions as provided in paragraph 4.2.1 of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph 4.2 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to such reports, drawings or to Underground Facilities at or contiguous to the site. CONTRACTOR has conducted, obtained and carefully studied (or assume responsibility for having done so) all necessary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

5.5 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.3 of the General Conditions.

5.6 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

5.7 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests studies and data with the Contract Documents.

5.8 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing the Work.

ARTICLE 6. CONTRACT DOCUMENTS

The Contract Documents, which constitute the entire agreement between OWNER and CONTRACTOR concerning the Work, are all written documents, which define the Work and the obligations of the Contractor in performing the Work and the OWNER in providing compensation for the Work. The Contract Documents include the following:

6.1 Invitation to Bid.

6.2 Instruction to Bidders.

6.3 Bid Form.

6.4 This Agreement.

6.5 General Conditions.

6.6 Supplementary Conditions.

6.7 General Requirements.

6.8 Technical Specifications.

6.9 Drawings with each sheet bearing the title: **2018 LOUISVILLE-LAFAYETTE QZ PROJECT**

6.10 Change Orders, Addenda and other documents which may be required or specified including:

6.10.1 Addenda No. _1_ to _2_ exclusive
6.10.2 Documentation submitted by CONTRACTOR prior to Notice of Award.
6.10.6 Notice of Award
6.10.7 Performance Bond
6.10.8 Labor and Material Payment Bond
6.10.9 Certificates of Insurance
6.10.10 Notice to Proceed
6.10.11 Contractor's Proposal Request
6.10.12 Contractor's Overtime Request
6.10.13 Field Order
6.10.14 Work Change Directive
6.10.15 Change Order
6.10.16 Application for Payment
6.10.17 Certificate of Substantial Completion
6.10.18 Claim Release
6.10.19 Final Inspection Report
6.10.20 Certificate of Final Completion
6.10.21 Guarantee Period Inspection Report

CDOT Forms which shall be required include:

FORM 606 – Anti-Collusion Affidavit (fully executed prior to bid opening)

FORM 1413 – Bidders List

FORM 1414 – Anticipated DBE Participation Plan

6.11 The following which may be delivered or issued after the Effective Date of the Agreement and are attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions.

6.12 In the event of conflict between the above documents, the prevailing document shall be as follows:

1. Project Special Provisions and Standard Special Provisions.

2. Technical Specifications and Drawings. Drawings and Technical Specifications are intended to be complementary. Anything shown or called for in one and omitted in another is binding as if called for or shown by both.

3. Supplementary Conditions.

4. General Conditions.

5. City of Louisville Design and Construction Standards.

6. Reference Specifications.

In case of conflict between prevailing references above, the one having the more stringent requirements shall govern.

There are no Contract Documents other than those listed above in this Article 6. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.5 and 3.6 of the General Conditions.

ARTICLE 7. MISCELLANEOUS

7.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, shall have the meanings indicated in the General Conditions.

7.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge that assignor from any duty or responsibility under the Contract Documents.

7.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

ARTICLE 8. OTHER PROVISIONS

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR.

This Agreement will be effective on _____, 2019.

OWNER: CITY OF LOUISVILLE, COLORADO

By: _____
Robert P. Muckle, Mayor

(CORPORATE SEAL)

Attest: _____

Meredtyh Muth, City Clerk

Address for giving notices:

749 Main Street
Louisville, Colorado
80027

Attention: City Engineer

CONTRACTOR: _____

By: _____

(CORPORATE SEAL)

Attest: _____

Address for giving notices:

_____

_____

_____

SUBJECT: **RESOLUTION NO. 3, SERIES 2019 – A RESOLUTION APPROVING AN AGREEMENT WITH BOULDER VALLEY SCHOOL DISTRICT FOR LEASE AND LICENSE AGREEMENT FOR FIBER OPTIC TELECOMMUNICATIONS NETWORK**

DATE: **JANUARY 8, 2019**

PRESENTED BY: **CHRIS J NEVES, IT DIRECTOR**

SUMMARY:
In 2008 Boulder Valley School District (BVSD) entered into a 10-year lease and license agreement with the City. The agreement has benefitted both parties by providing BVSD access to City right-of-way and, in return, the City has received 12 strands of single-mode fiber. Staff proposes that the City enter into another 10-year amended and restated lease and license agreement with BVSD. The original and future agreements allow the City to maintain a robust 10 gigabyte middle mile fiber network between most City facilities using the 12 dedicated strands of single-mode provided by BVSD. The lease and license agreement, should it be approved, is effective as of August 8, 2018 when the previous lease and license agreement expired.

FISCAL IMPACT:
None.

PROGRAM/SUB-PROGRAM IMPACT:
The objective for the Information Technology Sub-Program is to maintain a secure and connected network ensuring all users have appropriate technological resources to effectively perform their jobs. The impact of this initiative is to maintain high speed middle mile fiber connectivity.

RECOMMENDATION:
Staff recommends that City Council approve the Resolution and the amended and restated IGA with Boulder Valley School District.

ATTACHMENT(S):
1. Resolution
2. Agreement

RESOLUTION NO. 3
SERIES 2019

A RESOLUTION APPROVING AN AMENDED AND RESTATED LEASE AND LICENSE AGREEMENT FOR FIBER OPTIC TELECOMMUNICATIONS NETWORK BETWEEN THE CITY OF LOUISVILLE AND BOULDER VALLEY SCHOOL DISTRICT NO. RE-2

WHEREAS, pursuant to the Lease and License Agreement for Fiber Optic Telecommunications Network between the City of Louisville and Boulder Valley School District No. RE-2 (the "District") dated August 12, 2008 (the "2008 Agreement"), which Agreement expired by its terms on August 12, 2018, the District has built a fiber optic telecommunications network throughout its boundaries (the "District Network"); and

WHEREAS, as part of the District Network, the District constructed two fiber optic rings consisting of 288 strands of fiber optic cable, with the east ring providing service to the Louisville/Lafayette area, and with the west ring providing service to the City of Boulder and western Boulder County area; and

WHEREAS, the City owns the public rights of way within the City of Louisville, a portion of which the District had leased for the last ten years for the purpose of installing, operating, and maintaining the Louisville part of the District Network; and

WHEREAS, within portions of the District Network, the City owns conduit that includes six pair 22 AWG cable and empty conduit (the "City Conduit"); and

WHEREAS, by the 2008 Agreement, the City licensed use of the City Conduit to the District for installation of the District Network, and where there was no City Conduit available for use by the District, the City permitted the District to use the public right of way for the installation of conduit and fiber to complete the District Network; and

WHEREAS, in consideration for use of City right of way and City Conduit space, the District provided to the City 12 strands of fiber optic cable throughout portions of its east ring; in addition, the District provided the City 12 strands of fiber optic cable along certain spur routes that are not part of the east ring ("Dedicated City Fiber"); and

WHEREAS, as additional consideration, at no cost to the City, the District extended telecommunications conduit and/or fiber optic cable with 12 AWG locator wire to individual City buildings such as the North Water Treatment Plant – Main Building, Pretreatment Building and High Zone Pump Station (1955 N. Washington Ave.), City Hall (749 Main St.), Police Station (992 Via Appia) and Recreation Center (900 Via Appia), and provided one conduit with splice boxes for a crossing of SH42 at Pine St. and included splice boxes for future connection of the Dedicated City Fiber to the Coal Creek Golf Course Club House (585 Dillon Rd), Coal Creek Golf Course Maintenance Building (742 Dillon Rd.), and the Community Building (801 Grant Ave.); and

WHEREAS, there has been proposed an Amended and Restated Lease and License

Agreement for Fiber Optic Telecommunications Network ("Agreement"), whereby the City and District desire to continue the lease and license granted by the 2008 Agreement, and to set forth their mutual understandings of their respective rights and obligations in connection with the City Conduit, Dedicated City Fiber, and the District Network; and

WHEREAS, the City Council finds that the proposed Agreement is in the best interests of the City and its citizens, and by this resolution desires to approve the Agreement and authorize its execution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

1. The City Council hereby approves that certain Amended and Restated Lease and License Agreement for Fiber Optic Telecommunications Network between the City of Louisville and the Boulder Valley School District No. RE-2 to set forth their mutual understandings of their respective rights and obligations in connection with the City Conduit, Dedicated City Fiber, and the District Network (the "Agreement"). A copy of the Agreement is attached hereto and incorporated herein by this reference.

2. The Mayor is hereby authorized to execute the Agreement on behalf of the City Council of the City of Louisville, except that the Mayor and the City Manager are hereby further authorized to negotiate and approve such revisions to the Agreement as the Mayor or City Manager determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

3. The Mayor, City Manager and City staff are hereby authorized to execute all documents and do all other things necessary on behalf of the City to perform the obligations of the City under the Agreement, including but not limited to execution of all certifications, forms, memoranda of understanding, and other documents required in connection with the Agreement and project.

.

PASSED AND ADOPTED this 8th day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

AMENDED AND RESTATED LEASE AND LICENSE AGREEMENT FOR FIBER OPTIC TELECOMMUNICATIONS NETWORK

BETWEEN

CITY OF LOUISVILLE AND BOULDER VALLEY SCHOOL DISTRICT NO. RE-2

Dated August 12, 2018

THIS AGREEMENT ("Agreement") is between the BOULDER VALLEY SCHOOL DISTRICT No. RE-2, a Colorado school district (the "District"); and the CITY OF LOUISVILLE, a Colorado home rule municipal corporation (hereinafter referred to as the "City"), and is entered into and effective as of August 12, 2018.

BACKGROUND

A. Pursuant to the Lease and License Agreement for Fiber Optic Telecommunications Network between the City of Louisville and Boulder Valley School District No. RE-2 dated August 12, 2008 (the "2008 Agreement"), which Agreement expired by its terms on August 12, 2018, the District has built a fiber optic telecommunications network throughout its boundaries. As part of the District Network, the District constructed two fiber optic rings. The east ring provides service to the Louisville/Lafayette area; the west ring provides service to the City of Boulder and western Boulder County area.

B. The District installed a 288 strand fiber optic cable throughout the City of Boulder, the City of Louisville, the City of Lafayette and unincorporated Boulder County to build its Network.

C. The City owns the public rights of way within the City of Louisville, a portion of which the District has leased for the last ten years for the purpose of installing part of the District Network.

D. Within portions of the District Network, the City has conduit that includes six pair 22 AWG cable and empty conduit. The City has leased portions of the public right of way and conduit to the District. Where there was no City Conduit available for use by the District, the City permitted the District to use the public right of way for the installation of conduit and fiber to build the District Network.

E. In consideration for use of City right of way and City Conduit space, the District has provided to the City 12 strands of fiber optic cable throughout portions of its east ring. In addition, the District has provided the City 12 strands of fiber optic cable along certain spur routes that are not part of the east ring.

F. As additional consideration, at no cost to the City, the District extended telecommunications conduit and/or fiber optic cable with 12 AWG locator wire to individual City buildings such as the North Water Treatment Plant – Main Building, Pretreatment Building and High Zone Pump Station (1955 N. Washington Ave.), City Hall (749 Main St.), Police Station (992 Via Appia) and Recreation Center (900 Via Appia), and provided one conduit with splice boxes for a crossing of SH42 at Pine St. and included splice boxes for future connection of the

Dedicated City Fiber to the Coal Creek Golf Course Club House (585 Dillon Rd), Coal Creek Golf Course Maintenance Building (742 Dillon Rd. and the Community Building (801 Grant Ave.).

G. The City has retained and will continue to retain the right to use or assign the Dedicated City Fiber to parties of its choosing.

H. The City and the District proceeded with the development of the District Network in accordance with Section 29-1-203, C.R.S. which authorizes the District and the City to enter into agreements for the common utilization of school and city facilities.

I. With this Agreement, the City and District desire to continue the lease and license granted by the 2008 Agreement, and to set forth their mutual understandings of their respective rights and obligations in connection with the City Conduit, Dedicated City Fiber, and the District Network.

COVENANTS

In consideration for the rents described in this Agreement and the covenants made by each of the Parties and for other good and valuable consideration, it is agreed by the Parties the following:

I. DEFINITIONS. The Parties agree that the terms listed below will be defined as follows:

A. "City Conduit" means the City owned plastic pipe installed underground typically used for routing or fiber optic cable and as identified (in orange, yellow, green and red, with there being no distinction among such colors) on Exhibit A, attached hereto and incorporated herein by reference.

B. "Dedicated City Fiber" means (a) the 12 fiber optic strands which have been provided to the City for its exclusive use throughout portions of the District's east ring excluding approximately 4,000 feet of Fiber on McCaslin Blvd. between Via Appia and Dillon Road; (b) the 12 fiber optic strands along the following spur routes, listed below, that are also not part of the east ring, and (c) a 1 ¼" vacant conduit for City use on McCaslin Blvd. between Via Appia and Dillon Road which was provided by District in 2010 during the initial build;

1. Washington Ave. between S. Boulder Rd. and the North Water Treatment Plant (1955 N. Washington Ave.);

2. Via Appia between McCaslin Blvd. and the Police Station (922 Via Appia) and the Recreation Center (900 Via Appia);

3. Spruce St. between Jefferson Ave. and City Hall (749 Main St.);

4. Pine St. between Garfield Ave. and the signalized pedestrian crossing (400 block of Pine St.);

5. Dillon Road between S. 88th Street and S. 104th Street and the lateral to the Louisville City Services facility;

6. The lateral north of West Dillon Road to Coal Creek Golf Course (585 W Dillon Rd);

7. Lateral east from Jefferson on south Street terminating at the Louisville Museum;

8. All conduit east of City Hall on Spruce Street, including multimode fiber to the City's Waste Water Treatment Facilities on Empire Road; and

9. Lateral on Spruce west of Jefferson to the Louisville Arts Center and Memory Square Pool facilities.

C. "District Network" means the Boulder Valley School District fiber optic cable infrastructure which consists of a bundle of 288 fiber optic strands on the backbone and bundles of 48, 24 or 12 fiber optic strands on laterals or spurs throughout the District's east ring installed in the City Conduit or in District provided conduit consistent with the City's Design and Construction Standards, as more particularly depicted in Exhibit B.

D. "Fiber" and "fiber optic cable" means a bundle of individual fiber strands. Each fiber strand will be dedicated to providing communications between two or more points along the path of the fiber optic cable.

E. "Public right of way" means streets, alleys, roads, lanes, sidewalks, and public rights of way within the City.

II. DESCRIPTION OF LEASED/LICENSED PREMISES

The City has constructed various segments and systems of City Conduit within the City of Louisville. The City Conduit system includes six pair – 22 AWG cable in conduit and empty conduits. The City has leased conduit space to the District pursuant to the terms of this Agreement.

A. The City has leased, demised and set off to the District the following: City Conduit in the segments shown on Exhibit A.

B. The City has licensed to the District the following: Public right of way for the additional conduit necessary for the installation, operation, and maintenance of a portion of the District Network, as shown on Exhibit B.

C. Notwithstanding any provision hereof to the contrary, District expressly acknowledges and agrees that its interests hereunder as respects any City Conduit or public right of way that is within any City park or open space (as such terms are defined in the City charter) is an interest in the nature of a revocable license for underground facilities only, revocable at any time by the City without cause; provided that in the event of such a revocation, the parties agree to work together to determine an alternate route for the City and District facilities.

III. RENT

The rent paid to the City from the District is in the form of use of the Dedicated City Fiber that the District has provided to the City from the District Network and the other covenants set forth in this Agreement. The Dedicated City Fiber is operational and has been available for City use since December 31, 2009.

IV. RESTRICTION ON DISTRICT USE OF CITY CONDUIT

The District shall not use the District Network, including the District fibers installed in the City Conduit, for any purpose that would violate federal, state or local law.

V. LEASE TERM

The term of this Agreement shall be for a period not to exceed ten (10) years. The term of this Agreement will begin on the date above first written. The District may request to renew this Agreement for an additional ten (10) year term upon sixty (60) days written notice to the City. No renewal shall be effective unless in writing and signed by both Parties. The extended term shall be governed by the same terms and conditions as this Agreement, unless revisions are mutually agreed to by the Parties in writing.

VI. CONSTRUCTION, FIBER INSTALLATION AND TESTING.

A. Responsibilities. The District agrees to be responsible for the installation, operation, and maintenance of the District Network and for the following:

   1. Overseeing the design, procurement, construction, installation, operation, and maintenance of the District Network;

   2. Negotiating and entering into separate agreements with contractors to perform all or part of the work associated with the District Network; and

   3. Ensuring that the applicable terms and conditions of this Agreement are included in agreements with property owners and contractors.

B. Design and Construction Standards. The District shall comply with all of the construction, restoration, inspection and maintenance procedures and requirements set forth in the City's Design and Construction Standards and other City laws pertaining to the use of and work in the public right of way. Prior to performing any work in the public right-of-way, including conducting any inspection of City Conduit pursuant to Section VI.E, the District agrees to submit an application for a permit to work in the public right of way with plans that meet the requirements of the City of Louisville Municipal Code and the City's Design and Construction Standards.

C. Installation and Acceptance of Fiber in City Conduit. Any District installation of fiber optic cable in to the City Conduit shall be performed in accordance with Exhibit C, Fiber and Splicing Specifications, attached hereto and incorporated herein by reference. Additionally, the

District agrees to provide the City with complete test results, including OTDR tests, on all the Dedicated City Fiber. If the test results indicate the fiber strands provided to the City are not acceptable to the City, the District agrees to take required actions to cause all fiber strands to conform to the specifications as set forth on Exhibit C, within thirty (30) days of receiving notice from the City.

D. Laterals. Subject to this Agreement, either Party may engineer and construct a lateral connecting the District Network to any of its facilities at its own cost, at any time provided an addendum to this Agreement is approved by the District and the City. A Party seeking to develop a lateral on property outside of the City must obtain the appropriate permit from the property owner for any work in the public right of way. If a Party damages either the City Conduit or the District Network by the addition or operation of a lateral, that Party agrees to be responsible for repairing such damage to the infrastructure. The Parties agree to cooperate in the development of future laterals.

E. Physical Inspection of Conduit by District. Prior to any installation of any Fiber in City Conduit, the City agrees to provide the District the opportunity to perform a physical inspection of the City Conduit, or any portion thereof, by rodding and roping or other method acceptable to the District that will not damage the conduit. If the City Conduit is not continuous and capable of the installation of the fiber optic cable, the District shall give notice to City of any problems with the conduit. The District shall repair, at its expense, any City Conduit that is not continuous or capable of the installation of fiber optic cable, and any City Conduit damaged by the District's activities permitted under this Agreement.

F. As-Built Drawings. The District provided the City with "As-Built" drawings for the District Network in accordance with the provisions of the Design and Construction Standards. If the District modifies or expands the District Network in accordance with the terms of this Agreement, the District shall provide the City with update As-Built drawings, which shall be used to prepare an updated Exhibit C, which upon acceptance by the City, shall be appended hereto and incorporated herein by this reference.

G. Maintenance and Repair Responsibilities. The District will be responsible for maintenance and repair of all City Conduit, District owned fiber optic cable and locate wire constructed and installed within the District Network as shown on Exhibit A and B, including the Dedicated City Fiber. Each party shall pay its proportionate share of all costs of such maintenance based on the number of fibers owned by that party in the fiber optic cable. Upon request by the District, the City, or its successor in interest, shall pay such amounts to the District and the District shall disburse such payments to pay for materials and labor reasonably required and actually provided in connection with such maintenance activities. The District shall provide the City with prior written notice of intended maintenance activities and the estimated costs thereof. Maintenance and repairs of laterals or spurs installed for the City by the District shall be the responsibility of the City. Maintenance and repairs of laterals or spurs installed for the District's use shall be the responsibility of the District. The City reserves the right to repair or cause repairs, at the District's expense, to the Dedicated City Fiber if the District fails to promptly repair damaged District Network. The District shall reimburse the City within thirty days of receipt of an invoice for the repairs.

H. Relocation. In the event the City decides to relocate any segment of the leased City Conduit or conduit installed by the District in any public right-of-way, for any lawful purpose of the City or any enterprise, urban renewal authority, or other agency of the City, the District will be responsible for any expenses associated with the relocation of the fiber optic cable the District installed, including any Dedicated City Fiber. In the event of any relocation, the Parties agree to provide 60 days notice in writing to the other, unless failure to relocate poses a threat to health, safety or welfare of the public or individuals, as determined by the City, in which case the City shall have the right to move the conduit without such notice or with a lesser notice.

I. Repair of Damages. The District agrees to promptly repair all damage caused by the District or its contractors to City infrastructure, utility, traffic signal facility or other franchised utilities located within the City right of way. If such damage poses a threat to the health, safety or welfare of the public or individuals, the City may cause repairs to be made at the District's expense. The District shall reimburse the City within thirty days of receipt of invoice for the repairs.

J. Notification Provisions. The District agrees to provide 14 days notice of its intent to enter any manhole to the following:

City of Louisville
Kurt Kowar or his successor, Public Works Director
303-335-4601
kurtk@louisvilleco.gov

K. Support Contacts (Emergent and Non-Emergent)

1. BVSD Primary Support Contact

   i. Alan Schoenfeld, Hardware Services Specialist
   720-561-5207 Office
   720-480-1829 Mobile
   alan.schoenfeld@bvsd.org

2. BVSD Secondary Support Contact

   i. Megan Banola, Hardware Services Director
   720-561-5298 Office
   862-324-1531 Mobile
   megan.banola@bvsd.org

3. City of Louisville Primary Support Contact

   i. Chris J Neves, IT Director
   303-335-4568 Office
   303-710-1597 Mobile
   chrisn@louisvilleco.gov

4. City of Louisville Secondary Support Contact

i. Daniel Wooldridge, Systems Administrator
303-335-4555 Office
850-296-5120
dwooldridge@louisvilleco.gov

L. Utility Notification Center and Line Location. The Parties agree to maintain membership in, and coordinate its activities with, the Utility Notification Center of Colorado, and any successor organization coordinating location of utility lines. The Parties agree to respond promptly and appropriately to all line location requests from the public or from other utilities, whether or not such requests are made through the Utility Notification Center. The District will be responsible for providing locating services for all conduit and fiber optic cable within the District Network.

M. Additional Conduit. The District agrees to cooperate with the City in the planning, locating and construction of its conduit system. To the extent available during the time construction commences, the District agrees to install its conduit in joint trenches or common duct banks with other telecommunications providers or the City when so requested by the City. The City will in good faith attempt to provide advance notice to the District when it or others plan to open a trench, and the District agrees to provide notice to the City when it plans to open a trench. The District and the City will in good faith attempt to offer to make space available to the other, and to other persons who are subject to the same obligations, on reasonable terms, consistent with this Agreement.

N. Removal/Ownership of Facilities. Upon termination of this lease by the City or the District, other than as provided in Section II.C, the District agrees to cease using all facilities located within the City Conduit and the City public right of way. The District shall, at the City's option and the District's expense, either remove all or such portion of the facilities as the City shall designate in writing, or shall allow the facilities to remain in place. Upon expiration of this lease pursuant to Section V, all facilities within the public right of way not otherwise owned by the City will become the property of the City, and the District shall execute and deliver to the City a bill of sale conveying to the City, for no further consideration, all such facilities.

O. No Introduction of Hazardous Materials. District agrees it shall not, in the exercise of its rights hereunder, introduce into or store, generate or dispose any hazardous substance (as defined under any state or federal law) on or within any City Conduit or City public right of way.

P. Termination. This Agreement may be terminated by either party upon 90 days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, if such default is not cured within 90 days of receipt of written notice of default, or, if such default is not curable within 90 days, if the defaulting party fails to commence such cure within 90 days or fails thereafter to diligently prosecute such cure to completion. Additionally, the City may upon 90 days' written notice terminate this Agreement as to any segment of City Conduit or portion of City right of way that is condemned by lawful exercise of eminent domain.

Q. No Assignment. The District shall not assign all or any portion of its rights, obligations or interest under this Agreement without the express, prior written consent of the City,

which consent may be granted or denied in the City's discretion. If granted, the City may impose conditions upon such consent at the City shall determine.

VII. MISCELLANEOUS PROVISIONS

A. Disagreements. Both Parties agree in good faith to use their best efforts to resolve disputes that may arise under this Agreement by direct consultation, facilitated discussions or mediation, if possible, before commencement of litigation; provided, however, such procedures shall not be a condition precedent to the filing of litigation in order to protect against the application of any statute of limitations.

B. Good Faith Negotiations. In the event that either Party feels unreasonably constrained by the terms of this Agreement at any time, the Parties shall bargain in good faith to explore any adjustment of the terms of this Agreement which could relieve such constraint, consistent with the spirit of this Agreement and the public interest.

C. No Indemnity and Hold Harmless. Neither Party is required to indemnify the other in connection with this Agreement, except as set forth in this Agreement. However, each Party assumes responsibility for its actions and omissions in the performance or failure to perform work under this Agreement, as well as the actions and omissions of its agents and employees. Neither Party waives or intends to waive the limitations on liability which are provided to the parties, their officers, and employees under the Colorado Governmental Immunity Act, Section 24-10-101, et. seq., C.R.S. The District agrees to be responsible to validate the availability of the City Conduit along the District's intended route, and the District agrees to hold the City harmless in the event there is an error within the City's conduit documentation.

D. Leases and Licenses Non-Exclusive. The leasehold interests and licenses granted by the City in this Agreement shall be non-exclusive and shall be subject to all applicable provisions of the Louisville Home Rule Charter, and subject to all prior rights, interests, easements, franchises or licenses granted to any person to use any such property, street, right-of-way, easement, right, interest or license for any purpose whatsoever.

E. No Claim Upon Revocation. This Agreement and the rights granted pursuant to this Agreement shall create no vested rights subsequent to its expiration, termination or revocation. Upon such expiration, termination or revocation, neither Party nor any successor in interest of any Party, including without limitation a trustee or creditor in bankruptcy, shall have any right to continue to operate the District Network or to recover any expenditures made hereunder.

F. Taxes. The District does not pay local sales and use taxes. The City agrees not to assess any local taxes in connection with the construction and maintenance of the District Network provided that any contractor constructing or maintaining the District Network may be assessed local sales and use taxes.

G. Annual Appropriation. The Parties' financial obligations under this Agreement in future fiscal years are subject to annual appropriation in accordance with Colorado law.

H. Insurance. The District certifies that it is insured for property and general liability coverages, including errors and omissions to the limits set forth in the Governmental Immunity Act. Excess insurance is purchased above the District's self-insured retention. The District also certifies it has obtained workers' compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee. A Certificate of Insurance shall be provided to the City outlining the insurance policy limits. The District's contractors working within City rights of way shall be licensed and permitted per the City of Louisville Municipal Code. Any District contract for work on the District Network shall require that the contractor indemnify the District and City against liabilities arising from the act, omission or other fault of the contractor, which indemnification shall be in a form mutually acceptable to the City and District. Such contract shall also require that the District and City be named as additional insureds on the contractor's commercial general liability coverage.

I. Governing Law and Venue. All agreements among the Parties shall be construed and interpreted in accordance with the laws of the United States of America and the State of Colorado. Venue for any action shall be proper in the Twentieth Judicial District of the State of Colorado and in the Federal District Court for the District of Colorado, depending upon the cause of action urged, and in no other court.

J. Integration Clause. This Agreement and the attached exhibits contain the entire agreement between the Parties relating to the City Conduit, District Network, and Dedicated City Fiber, and may be modified only by an instrument in writing executed by all of the Parties.

K. Effective Date. The terms of this Agreement will become effective as of the date set forth above.

L. Notices. All notices under this Agreement shall be given by registered or certified mail, postage prepaid, directed as follows, or as amended by notice given under this paragraph, and shall be deemed given on the date of mailing:

Intended for the District:

Boulder Valley School District No. RE-2
6600 E. Arapahoe, P.O. Box 9011
Division of Information Technology
Boulder, CO 80301

Intended for the City:

City Manager
With a copy to the Director of Public Works and the
Director of Finance
749 Main Street
Louisville, CO 80027

M. No Third Party Beneficiaries. The covenants and agreements contained in this Agreement are for the benefit of the District and the City only, and do not create any obligations or duties to persons not parties hereto.

N. Reservation of Police Powers. The District's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health and welfare of the public, and the District agrees to comply with all applicable laws and ordinances enacted, or hereafter enacted by the City. The City reserves the right to exercise its police powers, and nothing in this Agreement shall be construed as a waiver of said police power.

O. Authority. The Parties represent that the individuals executing this Agreement on their behalf possess full power and authority from their respective governing boards in compliance with Colorado law.

P. No Waiver. The waiver by either party of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Agreement.

Q. Replacement of Prior Agreement. The Parties intend that this Agreement replace in its entirety that Lease and License Agreement previously entered into between the Parties dated August 12, 2008, as amended on April 27, 2010, and November 13, 2012 (2008 Agreement).

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date indicated.

[SIGNATURE PAGE FOLLOWS]

CITY OF LOUISVILLE, COLORADO

By:_____
Robert Muckle, Mayor

Attest:

_____
Meredyth Muth, City Clerk

BOULDER VALLEY SCHOOL DISTRICT NO. RE-2

By: _____
President, Board of Education

Attest:

_____
Secretary

Approved as to form:

_____

School District Attorney

12/20/18 10:53 AM [ncb] R:\Louisville\Agreement\BVSD-CiLo IGA Agreement Restated CoL version 12-19-18 (kpc clean).docx

EXHIBITS:

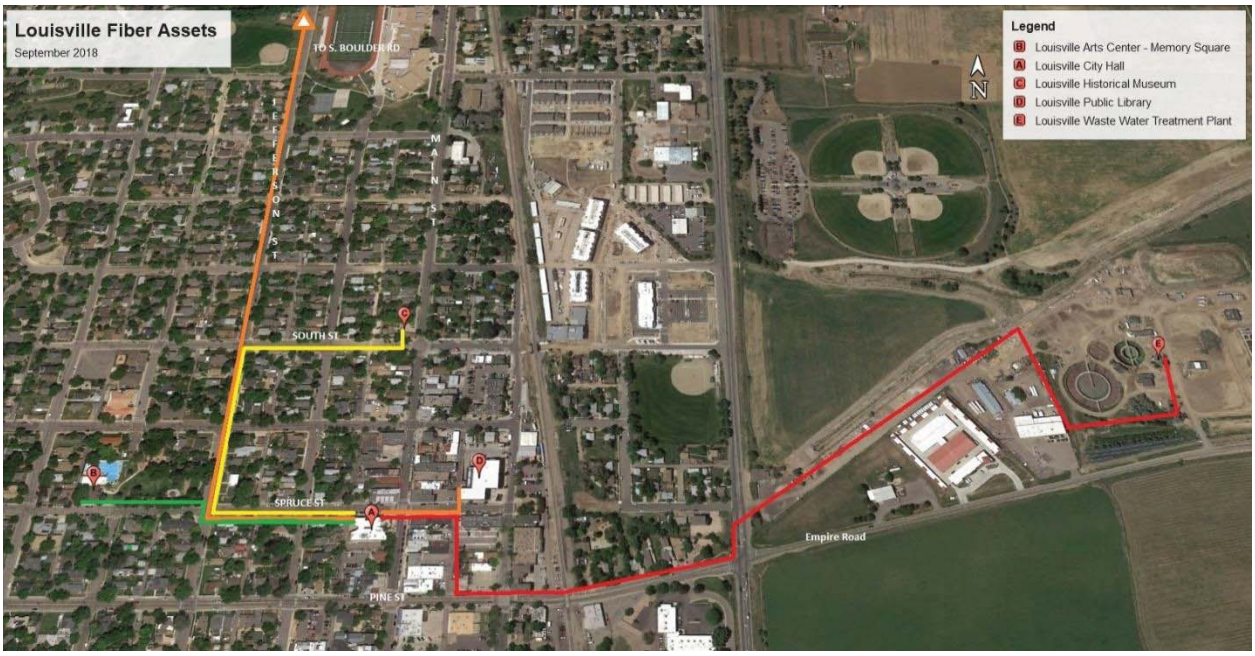
Exhibit A: City Conduit

Exhibit B: District Network and Leased Right of Way

Exhibit C: Fiber and Splicing Specifications

EXHIBIT A

CITY CONDUIT



Note: Top image does not include: Parts of the segment from S Boulder Rd heading north on Jefferson St; Bottom image does not include: 1) City conduit that continues from Jefferson St onto S Boulder Rd east to the east side of Plaza DR; 2) lateral segment from S 88th & Dillon Rd south to Campus Dr

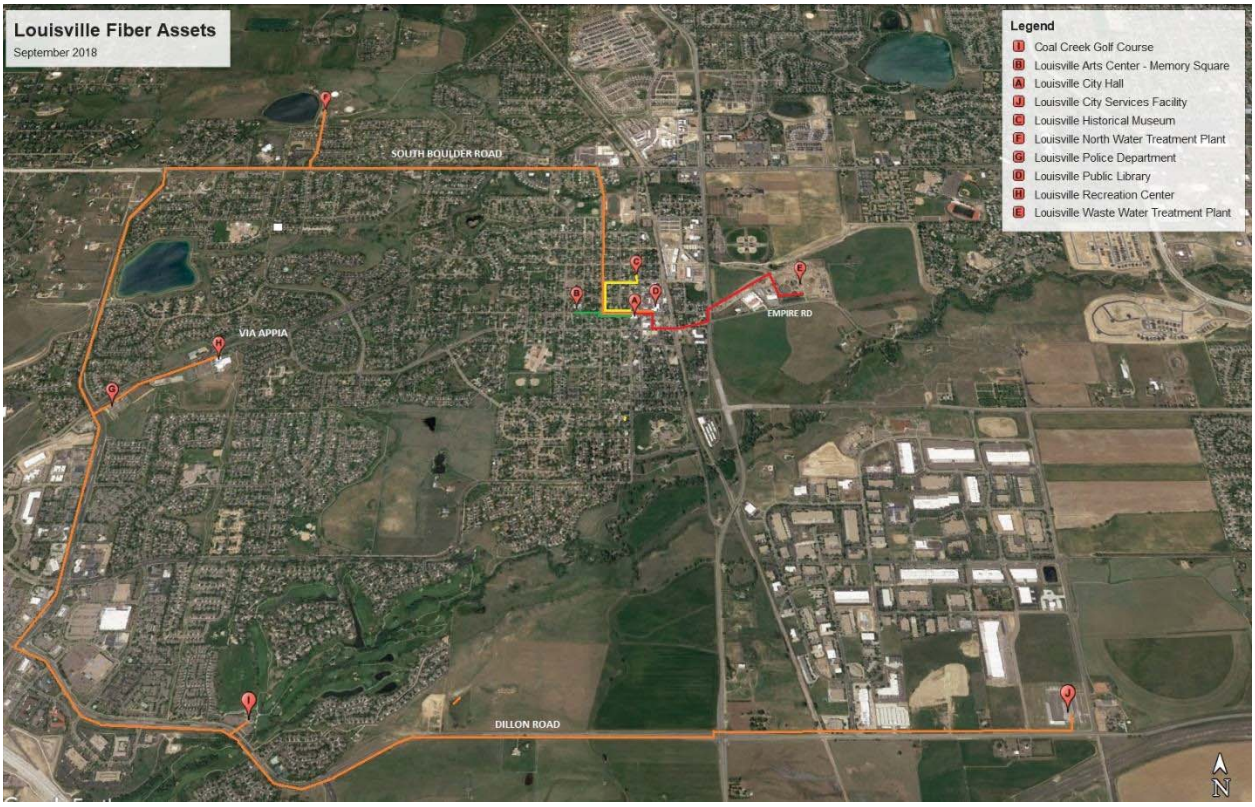


EXHIBIT B

DISTRICT NETWORK AND LEASED RIGHT OF WAY

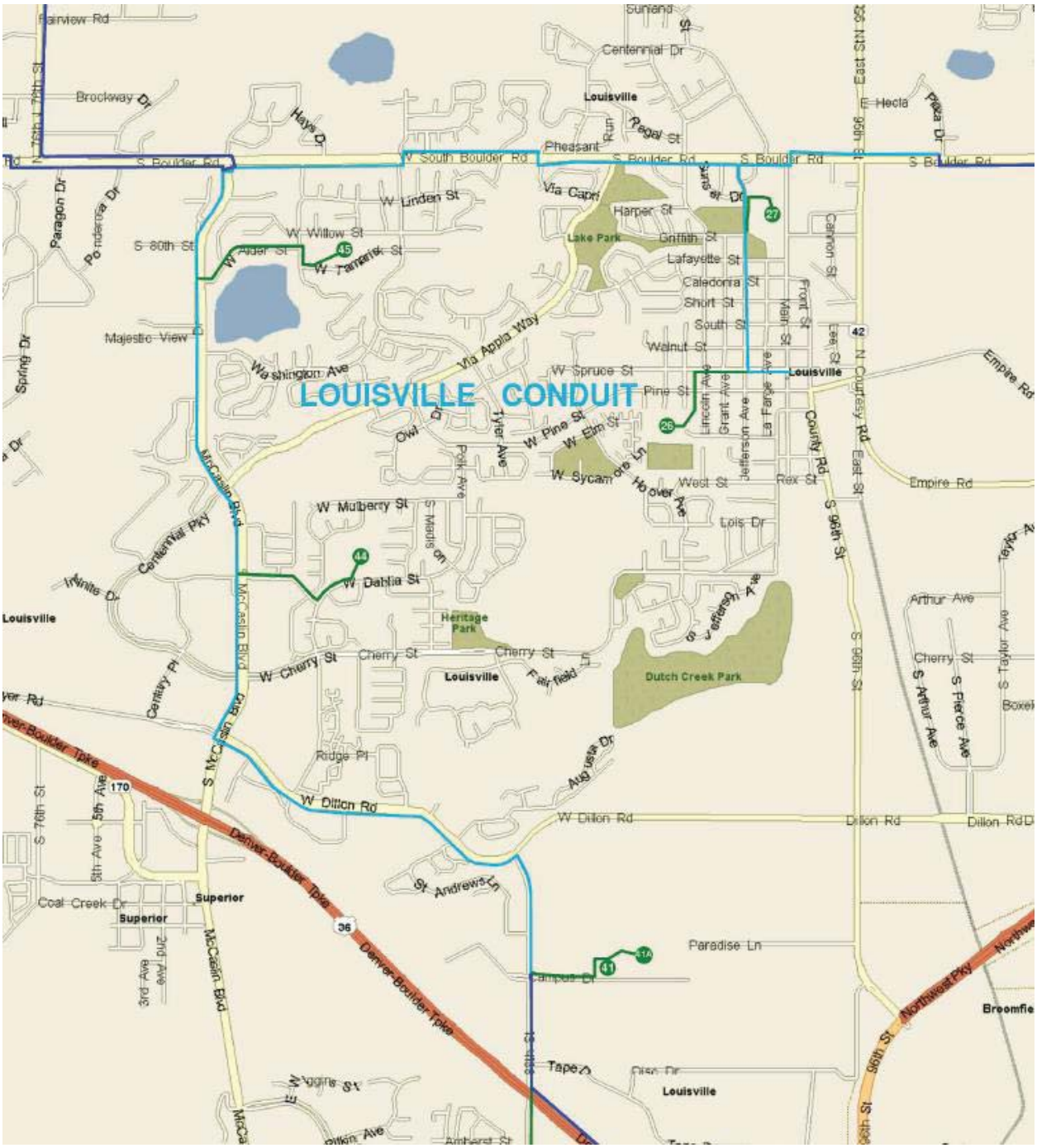


EXHIBIT C

FIBER AND SPLICING SPECIFICATIONS

The following are the standards and specifications the District follows and enforces in maintaining and extending its fiber plant. Contractors must certify (on Attachment B) that they understand and will comply with these standards in completing all work unless granted an exception in writing by the District before the work is undertaken.

WAN FIBER

- Singlemode
- All cable, unless otherwise specified in the site information, is to be Dielectric Outdoor Cable consisting of PE Outer Jacket, Rip-cord, Strength Elements, Binder, Water, Swellable tape, 2.5mm Buffer Tube (either Gel or Gel-Free), Binder, 250 um Single-Mode Corning - SMF-28E Fiber, and Dielectric strength Member.
- The OSP Cable shall be filled with a water-blocking compound
- The outer jacket is to be marked clearly in a contrasting color with the following information:
    - Manufacturer's Name, Cable Type (Optical or Fiber OPtic Cable), Year of Manufacture, Part Number & Sequential length markings (the actual length of the cable shall be within - 0/+1% of the length markings).
- Operating temperature -40◦ to 158◦ F (-40◦ to +70◦ C), Installation temperature -22◦ to 140◦ F (-30◦ to +60◦ C), Storage temperature -40◦ to 167◦ F (-40◦ to +75◦ C), Humidity range 0% to 100%.
- Maximum Tensile Strength
    - Installation (short term): 607 lb. (2700N force/No irreversible change in attenuation)
    - Installation (long term) 180 lb. (800N force). Mechanical properties, crush resistant to 250lbf/in (44 N/mm).
- Minimum bending radius: 8.2 in (21 cm) loaded (20Xcable dia). 4.1 in (10.5 cm) unloaded (10Xcable dia).
- Approved manufacturers: CommScope, Draka/Comteq, OFS, Alcatel and Corning.
- All Single-Mode Fiber contained in the deployed cables shall meet the standard specifications of Corning - SMF-28.
- Attenuation: 1310 nm ≤ 0.35 db/km
  1550 nm ≤ 0.22 db/km
- Core Diameter: 8-9µm all core diameters shall be of the same nominal core diameter and profile.
- Cladding Diameter: 125µm + 0.7µm
- Core-to-cladding offset: < 0.5µm
- Cladding Non-Circularity: < 1.0%
- Coating Diameter: 245 +10µm
- The coating shall be mechanically strippable without damage to the optical fiber.
- The individual fibers shall be distinguishable by color code in accordance with EIA/TIA-598 B, (Optical Fiber Cable Color-Coding)

CONDUIT

Outside conduit shall be a High-Density Polyethylene (HDPE) tubing specially constructed for the purpose of placing and enclosing fiber optic cable.

- Minimum size shall be a 2 inch pipe.

- All conduits or pipes terminating in buildings, vaults, handholes, or manholes shall be sealed around the outside of the pipe.

HANDHOLES

- The spacing between handholes shall not exceed 1,200 feet on long-haul routes through rural areas. Spacing of vaults in urban areas shall be set per construction drawings.
- A minimum of fifty (50) feet of cable shall be coiled at all intermediate handholes. Maximum footage will be at the discretion of the the District.
- A minimum of seventy-five (75) feet of cable shall be coiled at each end of the cable for splicing purposes. Maximum footage shall be 100 feet or at the discretion of the the District
- At building entry, unless otherwise specified, a 3R Nema Box, 12" X 12" X 6" is to be used for Pull Box. 1.25" Plenum Rated, Orange, innerduct is to be used from the point of building entry to the designated MDF location.

HAND-HOLE/ENCLOSURES SPECIFICATIONS AT BUILDING PENETRATION POINTS

- All underground hand-hole/enclosures shall be constructed of reinforced fiberglass polymer material.
- All hand holes must have the "BVSD FIBER" placard on the hand hole lid.
- Bottom of handholes will be covered with chicken wire to keep rodents out.
- Type/Size: 18"d X 30"1 X 24"w PG Style Stackable Handhold, or
- Type/Size: 18"d X 48"1 X 30"w PG Style Stackable Handhold
- Cover Specifications: 12,000lb Load Capabilities w/ 2 bolt lock
    - Cover Recommended manufacturer: Quazite
      Part Numbers:

PGBox	PG1730BA24
GP Bottom Ext.	1730EA08
Standard Cover	PG1730CAOO

SPLICING/TERMINATION

- Bare Fusion Splice Tray's must be in a waterproof enclosure (original install was Coyote enclosures, vendor can use equivalent).
- Splices shall be capable of withstanding 110 psi air pressure for five (5) minutes as measured by static pressure test.
- In each FTP terminated within a building, the Fiber Optic Pigtail is to have the following specifications. (If fiber is not within minimum distance to use OSP, then must be transitioned to Plenum rated single-mode fiber):
    - 12 (or whatever qty is installed) Fiber Fan Out
    - 18" Breakout
    - 120" (10')tail
    - Connector: SC
    - Corning - SMF28 Fiber
    - Yellow 6.3 dia.
    - No internal strength member
    - Each individual fiber is to be 900µm buffer
    - The individual fibers shall be distinguishable by color code in accordance with EIA/EIA-598B (Optical Fiber Cable Color-Coding)
    - The coating shall be mechanically strippable without damage to the optical fiber.
- Prefer splicers with a minimum of 2 years field experience

PRE-INSTALLATION CABLE TESTING

- All testing will be in accordance with TIA/EIA standards. If needed or requested by BVSD, in addition to OTDR a power meter test may be required. All testing equipment shall be provided by the contractor.
    - Contractor must provide proof that the OTDR was calibrated within 1 month of use
- All Fiber Optic Cable utilized in the installed project shall be verified and traceable to the cable manufacturer. The contractor shall provide the cable manufacturer's test report data for each reel of cable provided. The reports shall include:
    - Manufacturers on reel attenuation test report, specified by wavelengths, 1310 and 1550 nm for each optical fiber per reel.
    - On reel performance of bandwidth as tested at the factory
- All Optical Fibers are to be tested prior to final acceptance, using an OTDR and dead zone launch spool of 5000 ft. minimal distance. All measurements and fiber traces are to be saved in Bi-Directional, Dual Window format, 1310/1550 nm., and presented to BVSD in electronic format. The contractor will provide to BVSD a reader program for the OTDR software used to capture the fiber traces. The saved traces will contain the following information:
    - Span/location identification - test point, end point, & FTP port
    - Cable/Sheath length- Optical Fiber Length
    - 2-point db loss, attenuation in db/km (db/mile)
    - Fiber Type
    - Wavelength
    - Pulse Width
    - Fiber/Cable identification
    - Notes Section describing information on span/location
    - Traces displaying a "Ghost" will be rejected and subject to re-testing by the contractor at no additional cost to BVSD.
- All Optical Fibers are to be acceptance tested prior to installation, using an OTDR and dead zone launch spool of 5000 ft. minimal distance. All traces are to be saved in Dual Window format, 1310/1550 nm and presented to BVSD in Electronic Format (pdf, etc).
- Perform cable acceptance testing per an approved schedule with BVSD and/or designated representative. Adequate advance notice is required to allow BVSD and/or its designated representative to participate in this process.

POST INSTALLATION AND FINAL ACCEPTANCE TESTING

- Optical Attenuation (Insertion Loss):
    - Fibers are to be tested in accordance with: TIA/EIA 526-7.
    - Bi-Directional, Dual Wave-Length (1310/1550 nm) insertion loss testing shall be performed on all terminated Fiber Optic Connectors using a power meter and light source.
- Each Span/Section will comply with the following attenuation budget.
    - Attenuation (maximum): 2(C+L)(F+S) db
    - 2 = number of connectors per span
    - C =maximum allowed loss, per mated connector ≤ 0.35 db
    - L = Length in kilometers per span
    - F =maximum allowed loss, fiber 1310 ≤ 0.35 db/km & 1550 ≤ 0.22 db/km
    - S =total splice loss(# of splices x max. loss per splice)

- Measurements shall include all connectors, couplings, and cables installed at all system endpoints.
- A verified reference jumper, with like connector type, shall be used to "Zero" the connection to insure that accurate measurements are achieved at each end location.
- Measurements are to be recorded, provided to BVSD in a spreadsheet format hard copy, and in agreed upon electronic format.
- Documentation of the insertion loss testing shall consist of the following:
    - Wavelength
    - Fiber type
    - Fiber & Cable Number
    - Measurement direction
    - Test Equipment Used and Serial Number
    - Test Operator
- For any fiber that does not meet the requirements, it is the responsibility of the contractor to correct the problem. This is to be at no additional cost to BVSD.
- Bi-Directional, Dual Wave-Length (1310/1550 nm) Link Integrity Verification shall be performed on all terminated Fiber Optic Connectors using an OTDR (Optical Time Domain Reflectometer). Measurements shall include all connectors, couplings, and cables installed at all system endpoints.
- All spans must have ≤ 0.25db/km loss measurements. Unless otherwise specified or approved, any spans that fail this measurement shall be repaired by the contractor. This is to be at no additional cost to BVSD.

DOCUMENTATION

Within 7 days after project completion, the contractor must supply BVSD with a complete set of the final test results in hard copy and in agreed upon electronic format. The package must include printouts of the following:

- Pre-installation Cable Testing
- Post Installation- Final Acceptance Testing
- Optical Attenuation (Insertion Loss)
- Link Integrity Verification (OTDR)

Within 7 days after project completion, as built records/drawings shall be provided to BVSD which will include bore logs and HH/Splice reports. On the drawing will be sequentials, splice points, fiber count, handhole locations, and measurements off center line (or GPS coordinates to HDPE/Handholes).

CITY COUNCIL COMMUNICATION
AGENDA ITEM 5G

SUBJECT: **APPROVAL OF CITY COUNCIL SPECIAL MEETINGS ON JANUARY 15 AND FEBRUARY 12, 2019**

DATE: **JANUARY 8, 2019**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**

SUMMARY:
Staff requests the City Council approve making the study sessions on January 15 and February 12 into special meetings to allow Council to give direction to staff on the meeting items.

FISCAL IMPACT:
None

RECOMMENDATION:
Approve January 15 and February 12 as special meetings.

ATTACHMENT(S):
None

SUBJECT: **DISCUSSION/DIRECTION – HIGHWAY 42 AND SHORT STREET INTERSECTION IMPROVEMENTS**

DATE: **JANUARY 8, 2018**

PRESENTED BY: **KURT KOWAR, PUBLIC WORKS DIRECTOR**

SUMMARY:

Staff is providing information for discussion and direction related to the Highway 42 and Short Street Intersection Improvements. More specifically, current data indicates the City Council may want to consider improvements to Highway 42 in the near term that complete a 3 lane traffic signal intersection at Short Street but do not preclude an ultimate 5 lane cross section.

A detailed presentation and video of various traffic modeling scenarios are provided to facilitate the overall discussion.

The video provides visual microanalysis modeling of the corridor for 3 scenarios:

1. 2040 Traffic with no action taken (existing conditions).
2. 2040 Traffic with a 3 lane cross-section and new signals at Short and Hecla.
3. 2040 Traffic with a 5 lane cross-section and new signals at Short and Hecla.

A link to the video for review prior to the City Council meeting can be viewed at: https://youtu.be/Ad-iuNz1eng.

The City has actively planned various policies along the Highway 42 Corridor dating back to an Intergovernmental Agreement with the Colorado Department of Transportation (CDOT) in 1991.

Most recently, in 2013, the City undertook and approved a Highway 42 Gateway Plan that adopted specific corridor improvements and designs for a three (3) lane cross section. Staff has been working since 2015 in coordination with CDOT to design improvements from Griffith Street to just South of South Street that will install medians and a traffic signal at Short Street.

In conjunction with the final design for these corridor improvements the City undertook two efforts that were related to current traffic operations and long term planning:

1. Transportation Master Plan
2. Highway 42 Traffic Study (Signal Timing Analysis)

Current public input, City Council input, general observation, 2018 traffic volume measurement, and updated forecasts suggest that the 2013 Highway Gateway Corridor Plan may not be the optimal solution to address several competing goals throughout the corridor.

In addition, previous stakeholder (CDOT, Boulder County Open Space) policy positions that supported or constrained uses along Highway 42 in past studies have changed which also influence current day considerations.

Staff will briefly walk through the corridor history, challenges, opportunities, and progress during the presentation. The goal of this discussion is to ensure the City Council is completely informed prior to approval of a final construction contract to build the Griffith to South Street improvements that are estimated to cost $3,500,000.

FISCAL IMPACT:

1. The City currently has $3,030,000 approved for the Highway 42 and Short Street Intersection Improvements. Current estimates to complete the project are $3,500,000. The City will need to identify an additional $470,000 to complete the improvements. Actual project bid costs will be known in February.
2. If City Council through this discussion opts to not preclude a 5 lane cross-section with these improvements it is possible to see $100,000 in savings by not installing concrete medians and landscaping.
3. CDOT has not yet approved the Short Street traffic signal warrant. In order to approve the current warrant analysis CDOT may require additional improvements at Griffith Street that modify this intersection to a ¾ Movement. Staff is currently allocating $100,000 allowance for this possibility.

PROGRAM/SUB-PROGRAM IMPACT:
This discussion and project support the Transportation Goals of the City by providing a safe, well maintained, effective and efficient multi-modal transportation system at a reasonable cost.

RECOMMENDATION:
Provide staff direction regarding:

1. The desire to strictly install 3 lane cross section improvements from Griffith to South Street.
2. OR the desire to install improvements from Griffith to South Street without precluding a 5 lane cross section.

ATTACHMENT(S):
1. Presentation
2. Link To Video

Highway 42 and Short

Past, Present and Future Considerations

January 8th, 2019

City of Louisville

COLORADO • SINCE 1878

"A **safe**, well maintained, **effective** and **efficient multi-modal** transportation system at a **reasonable cost**."

– Louisville Transportation Goals

"Design infrastructure to adopted standards that **meets the transportation needs of the City**. **Collaborate with partner agencies (RTD, CDOT)** to **ensure residents have adequate multimodal transportation options**. **Proactively redesign the street network as regulations and technology change our transportation needs over time**."

– Louisville Transportation Planning and Engineering Objective

Goals for this conversation.

Warning: Some information is provided conceptually for a complete perspective but is not assumed a policy decision.

---

1. Briefly **refresh** all of City Council on Highway 42 History.

2. **Update** City Council regarding current corridor analysis and planning.

3. **Inform** City Council regarding planned construction and the associated benefits and tradeoffs.

4. Consider and **confirm** or **modify** the final design of the Short Street Signal and associated improvements.

5. **Discuss** long term corridor policy and infrastructure to provide direction for TMP.

Urgent and Important

Today

1. Traffic **Today** Update
2. **Short Street** Direction
3. **Hecla Area** Update
4. **TMP** Direction

Current Priorities

Important

but not urgent

Future

1. **Bus Rapid Transit**
2. Traffic **2040**
3. Rail
4. Speed
5. Underpass

TMP Prioritization

Gateway 3 Lane as planned.

Gateway 3 Lane to not preclude optimal **5 Lane**

3 Lane Short Street

Looking South

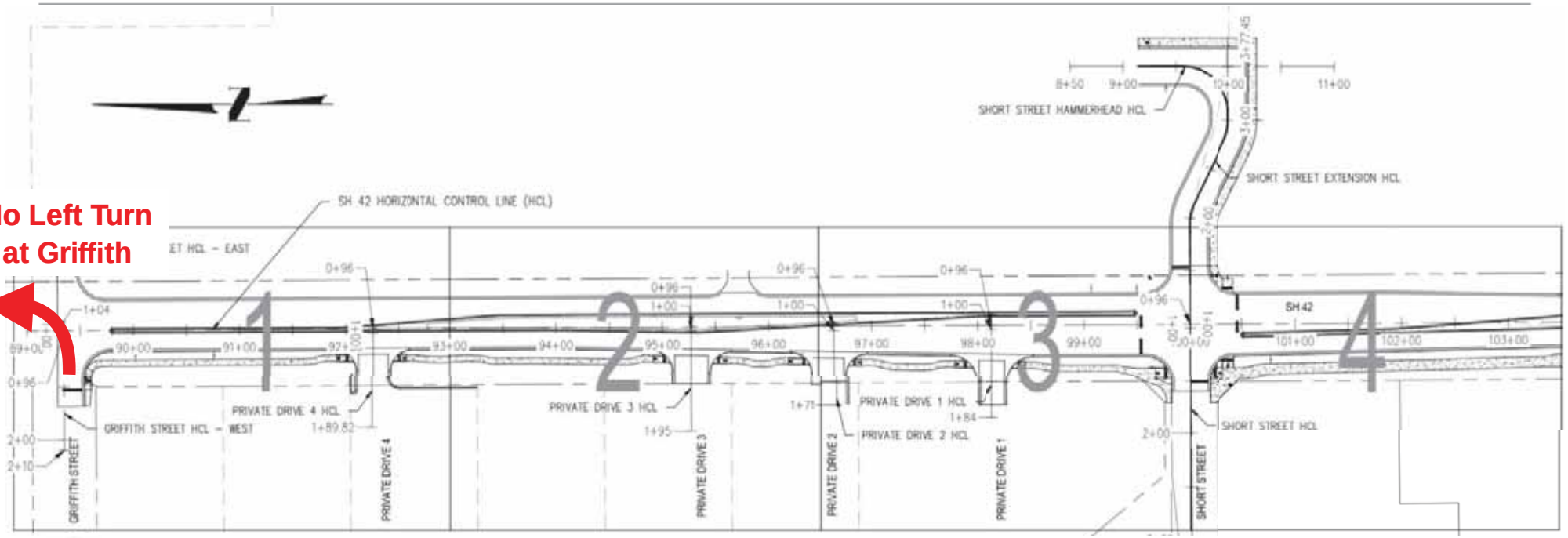
3 Lane Short Street

Looking East

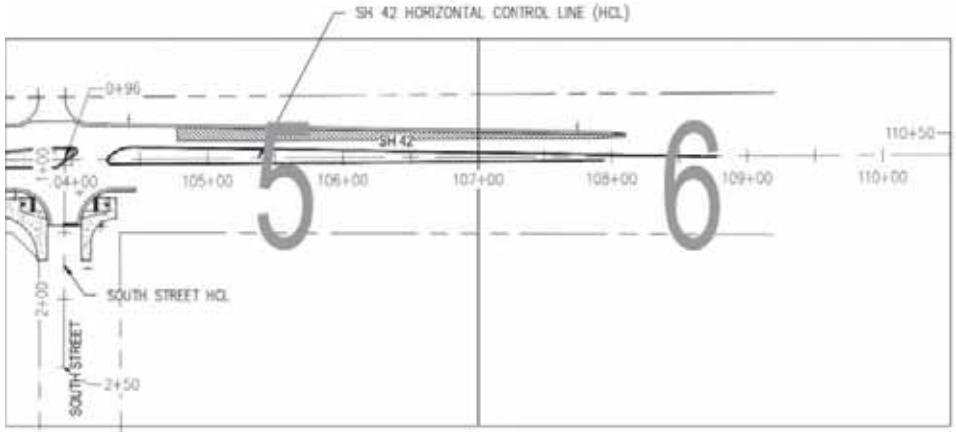
3 Lane Completed Design - Bidding Now

Improvements will take place from Griffith to South

No Left Turn at Griffith

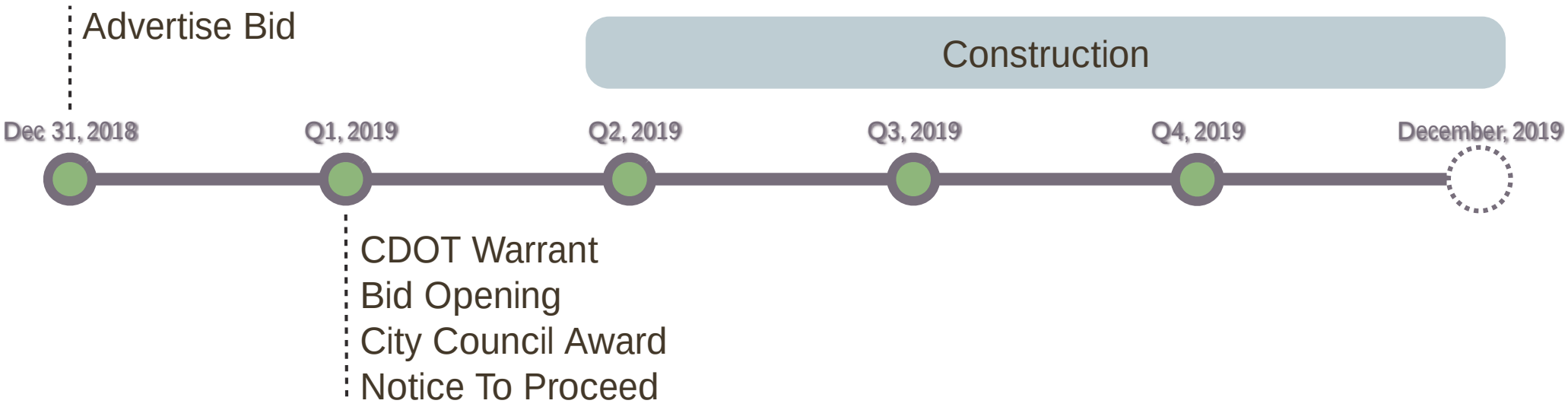


CDOT may require construction of 3/4 movement at Griffith to approve Short St Warrant. Currently not designed or costed. $100,000 Allowance.



Estimated Schedule/Budget for 3 Lane Improvements

Assuming CDOT Approves Warrant Evaluation of Intersection

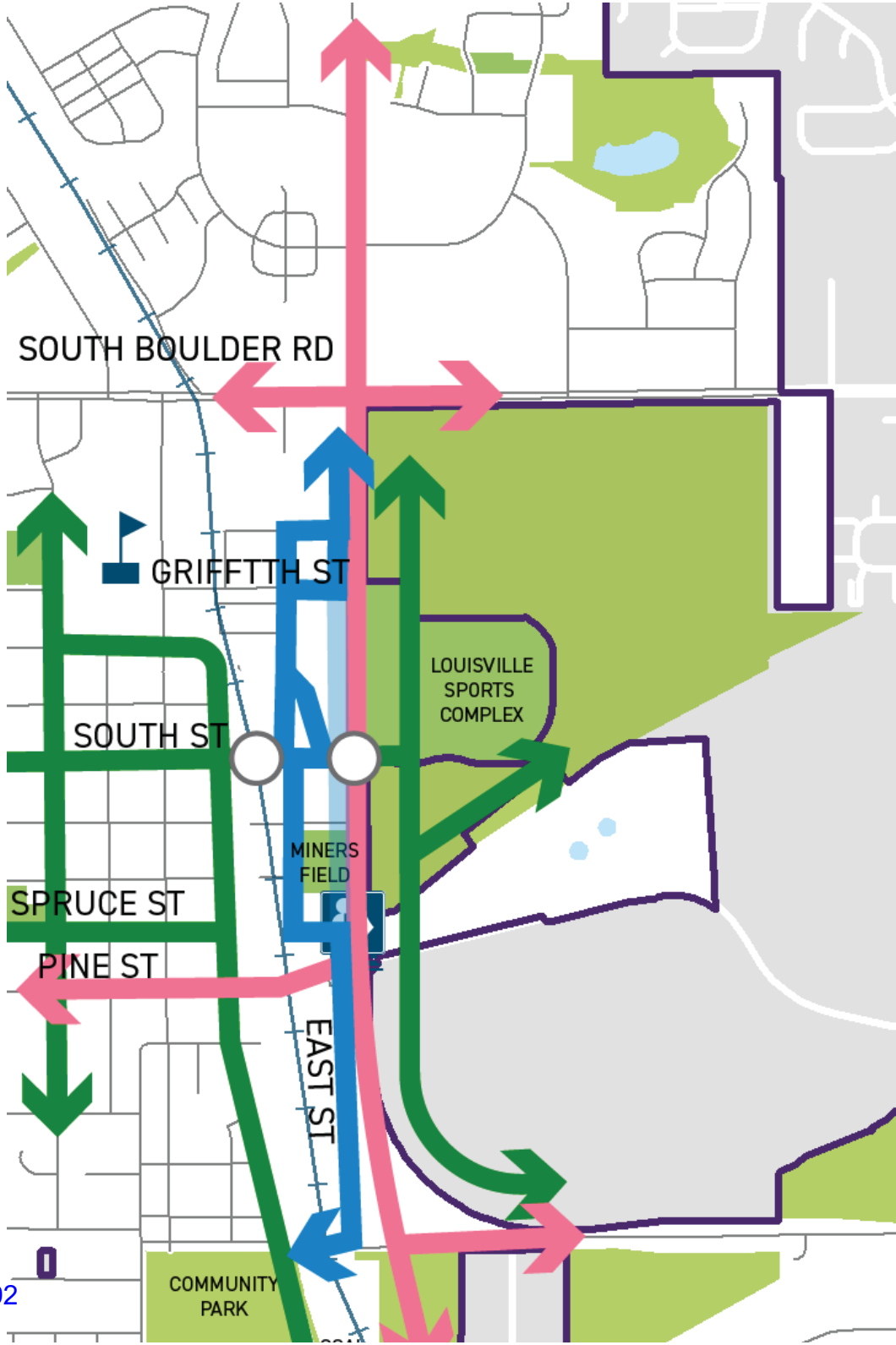


Approved Budget	Need	Engineers Estimate
$3,030,000	**$470,000**	**$3,500,000**
Minor Modifications Don't preclude 5 Lane	**($100,000)** Cable Span, No Median	
3/4 Movement Griffith Possible CDOT Requirement	**$100,000** 3/4 Movement Allowance	

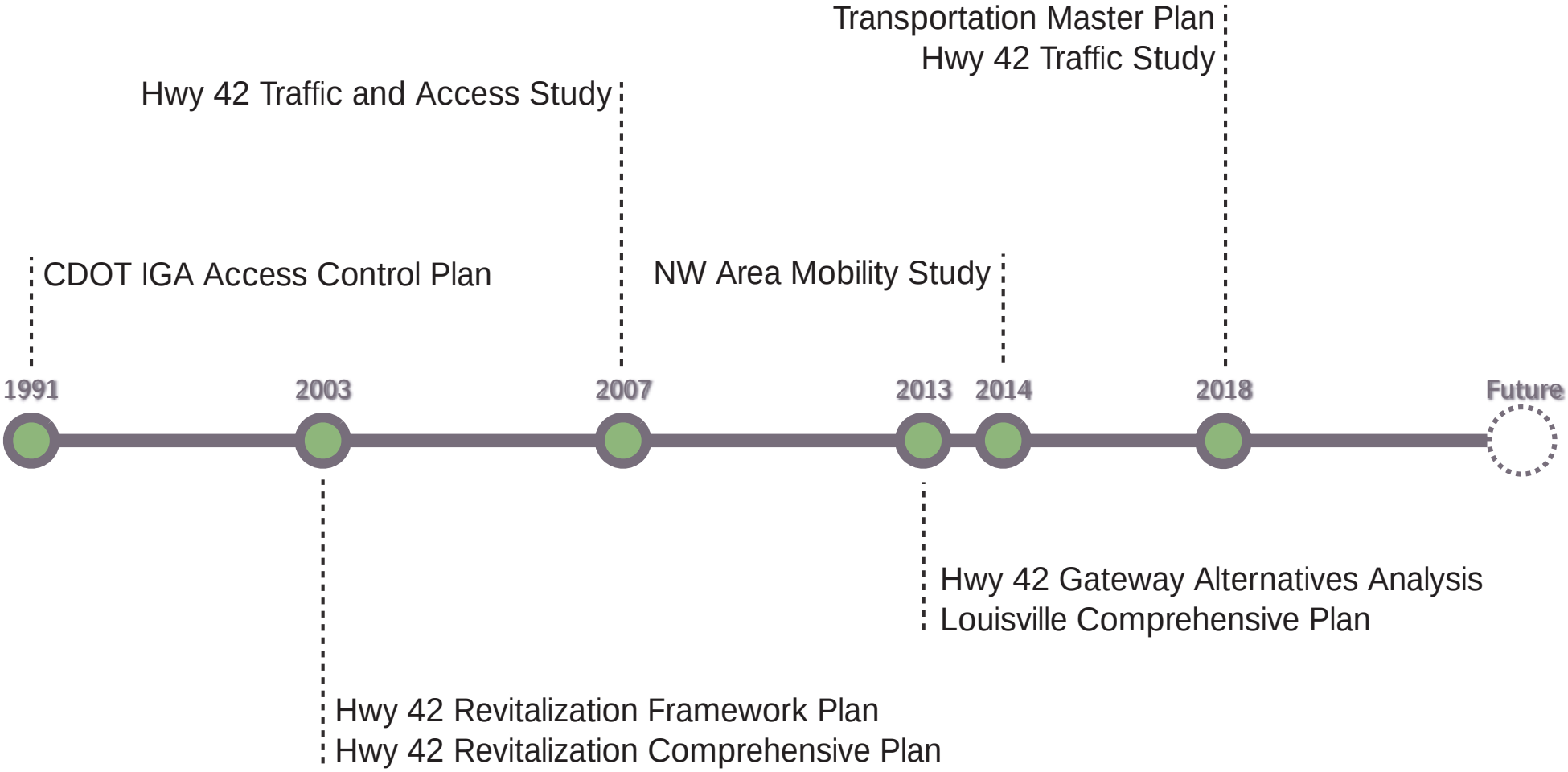
Contextual Considerations

Balancing Ongoing and Changing Needs

- **Vehicles**, **Bikes**, **Pedestrians**
- Economic Development
- Residential Access
- Open Space Preservation
- Rural and Built Characteristics
- Available Right of Way
- Future Rail Location and Traffic Impacts
- East to West Human Friendly Connections
- Corridor Bus Service

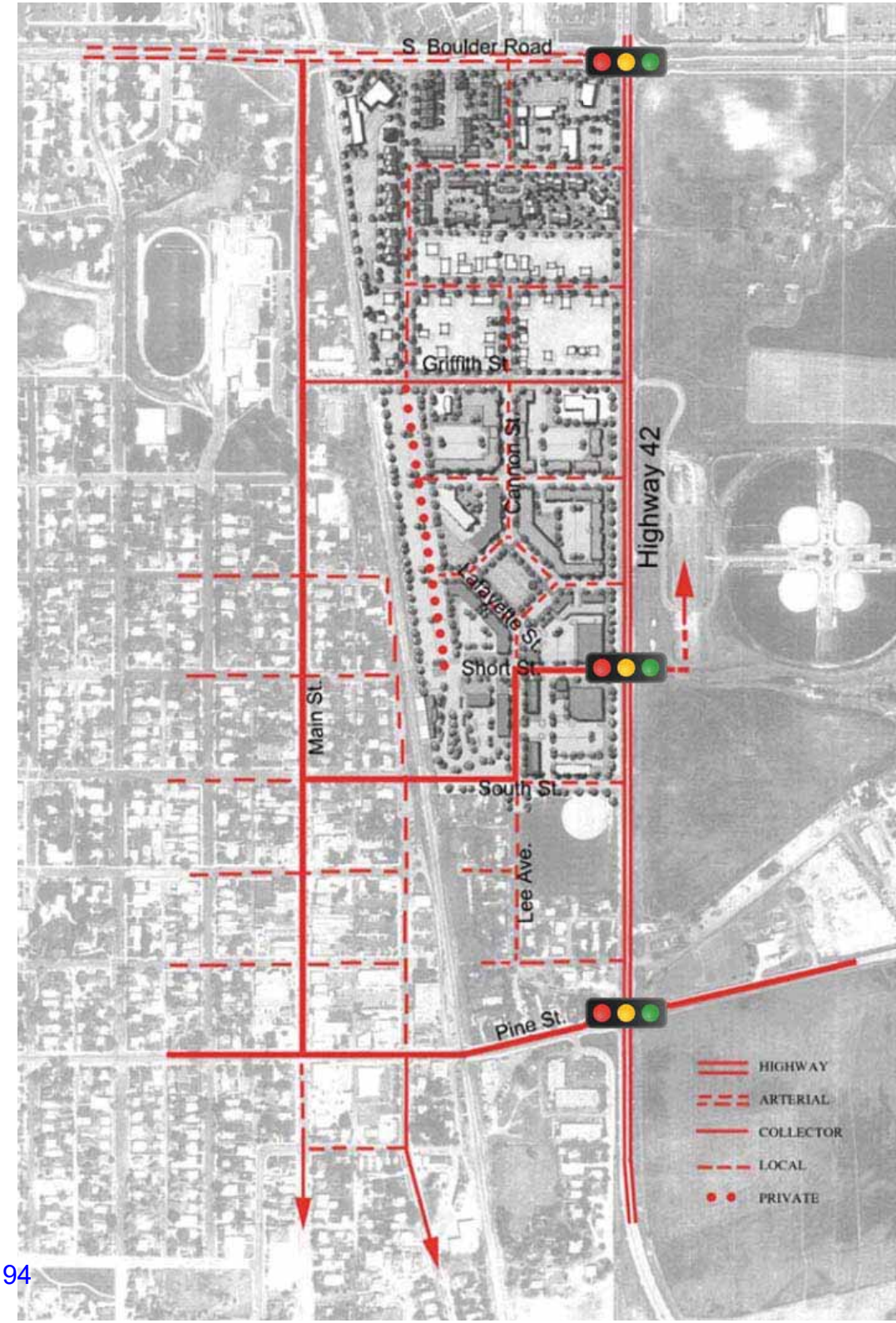


The History of Highway 42



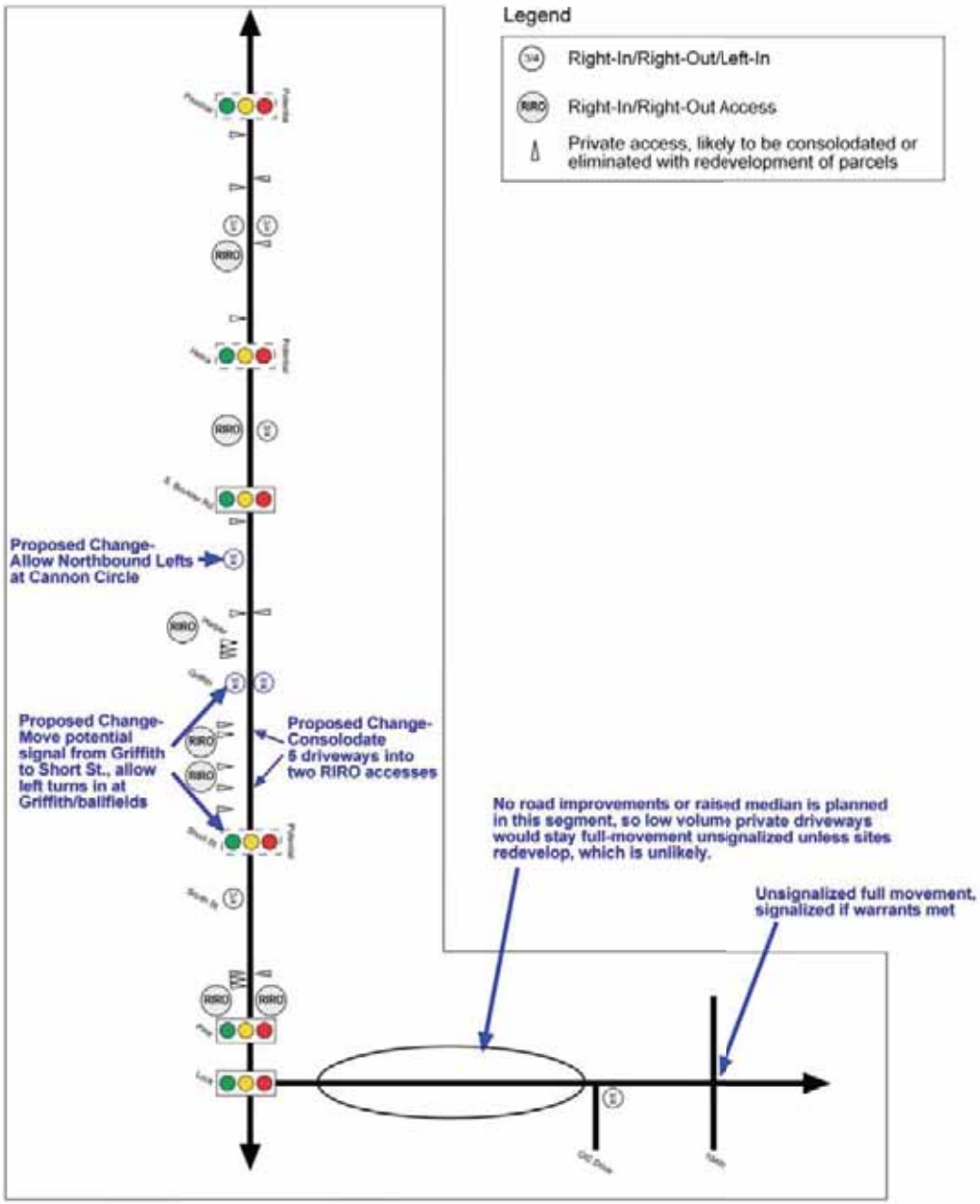
2003 42 Framework

- Preferred Land Use Plan
- Pedestrian Circulation, Corridors, Parks and Open Spaces
- Transportation and Access
- Street Alignments
- Subareas and Character
- Rail Planning



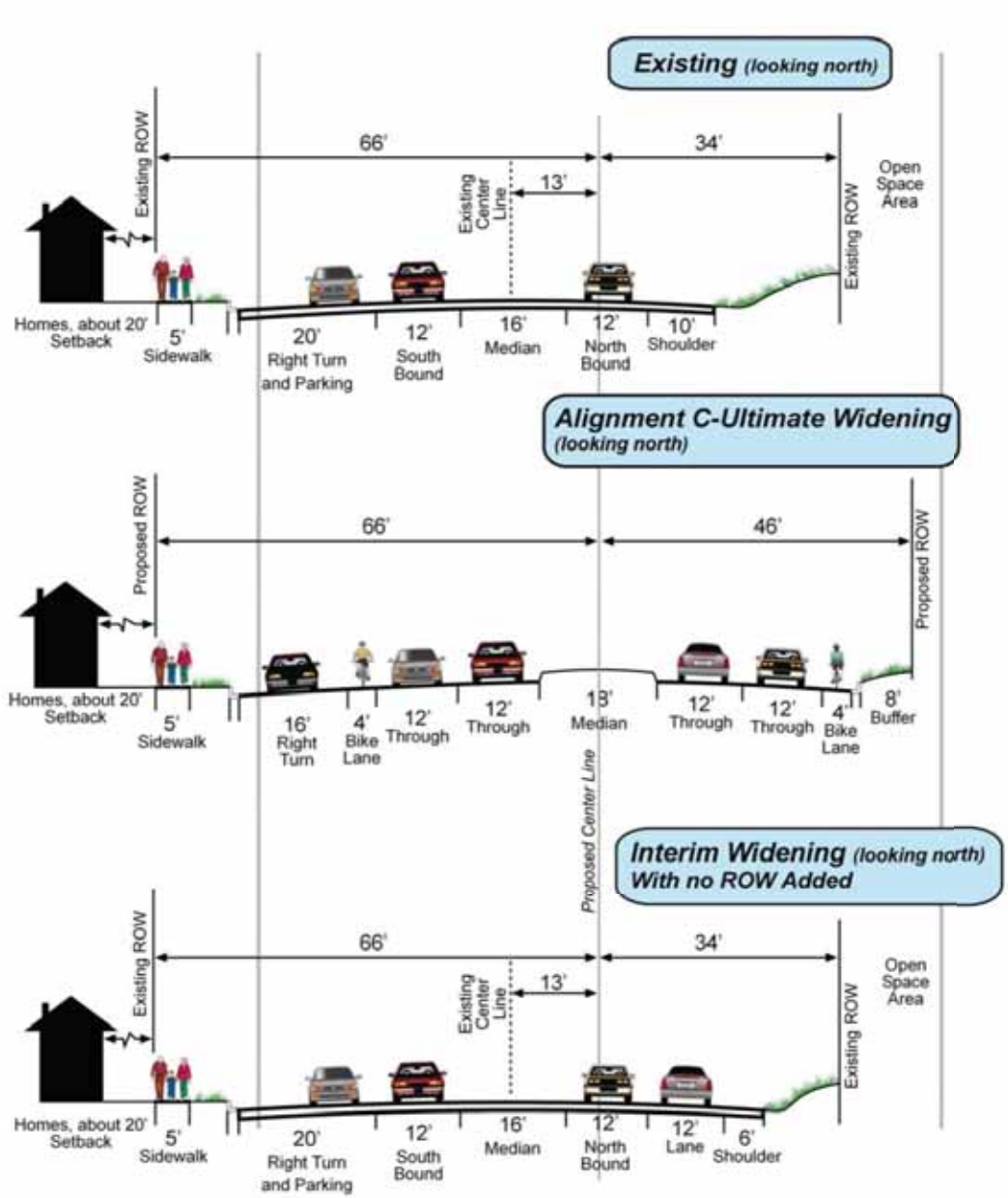
2007 Access Plan

- Signal at Paschal
- Signal at Hecla
- Signal at SBR
- 3/4 Movement at Griffith
- Signal at Short Street
- Signal at Pine
- Signal at Lock
- Various Right In/Right Out



2007 Cross Sections

- **Existing** cross section can't handle the traffic and isn't multi-modal.
- **Ultimate Widening** impacts too many adjacent uses and is outside of ROW.
- **Interim Widening** works for traffic but still falls short on multi-modal.



2013 Gateway Plan

- Connectivity
- Multimodal
- **3 Lane** vs 5 Lane
- Addition of Signal at Cannon
- Small Town Character
- Human Scale
- South Street Underpass
- Introduced Concept of Offset Left Intersections
- Reduced Speed Goals

2018/2019

Updated Information and Analysis

- **TMP** - Macro Analysis
  - Indicates **5 Lanes** is Optimal
  - Separated Uses
  - Underpass at South
- **42 Traffic Study** - Micro Analysis
  - **Hecla - Feasible**
  - **Cannon - Not Feasible**
  - **Short - Feasible**
  - Indicates **5 Lanes** is Optimal
- **Short Traffic Signal**
  - **3 Lane** Design - Complete
  - Bidding - Now
  - Warrant - Pending Approval
  - Construction - 2019

CITY OF LOUISVILLE Transportation Master Plan

SH 42 Traffic Study

DRAFT

Prepared for:

City of Louisville
COLORADO • SINCE 1878

Prepared by:

apexdesign

Example 3 Lane

$10-20 million for corridor

Example 5 Lane

$15-30 million for corridor

Forecasted Highway 42 Travel Times

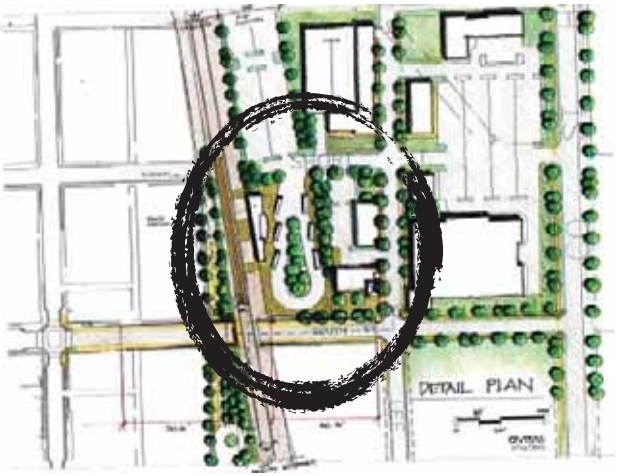
Lock to Paschal Travel Times

	2013 Gateway Existing	2018 TMP/Apex Existing	2035 Gateway 3 Lane	2035 Gateway 5 Lane	2040 Apex 3 Lane
AM Peak North ↑	2.9 min	3.0 min	**1.50x** 4.4 min	**1.50x** 4.2 min	**2.00x** 5.8 min
AM Peak South ↓	3.3 min	2.0 min	**1.50x** 4.6 min	**1.25x** 4.02 min	**1.50x** 4.8 min
PM Peak North ↑	3.3 min	3.2 min	**1.75x** 5.7 min	**1.50x** 4.76 min	**4.10x** 13.5 min
PM Peak South ↓	3.2 min	5.1 min	**1.50x** 4.9 min	**1.25x** 3.97 min	**1.75x** 5.5 min
Average Daily Traffic (Cars per Day)	**19,200** 2013	**22,600** Today	**21,800** DRCOG	**21,800** DRCOG	**1.50x** **28,000** DRCOG

Future Opportunities

Rail

What Was Planned vs. What Was Built



- **Station** plan will need **Update**
- **First and Final Mile** Strategy
- Queue Jumps, Bus Stops

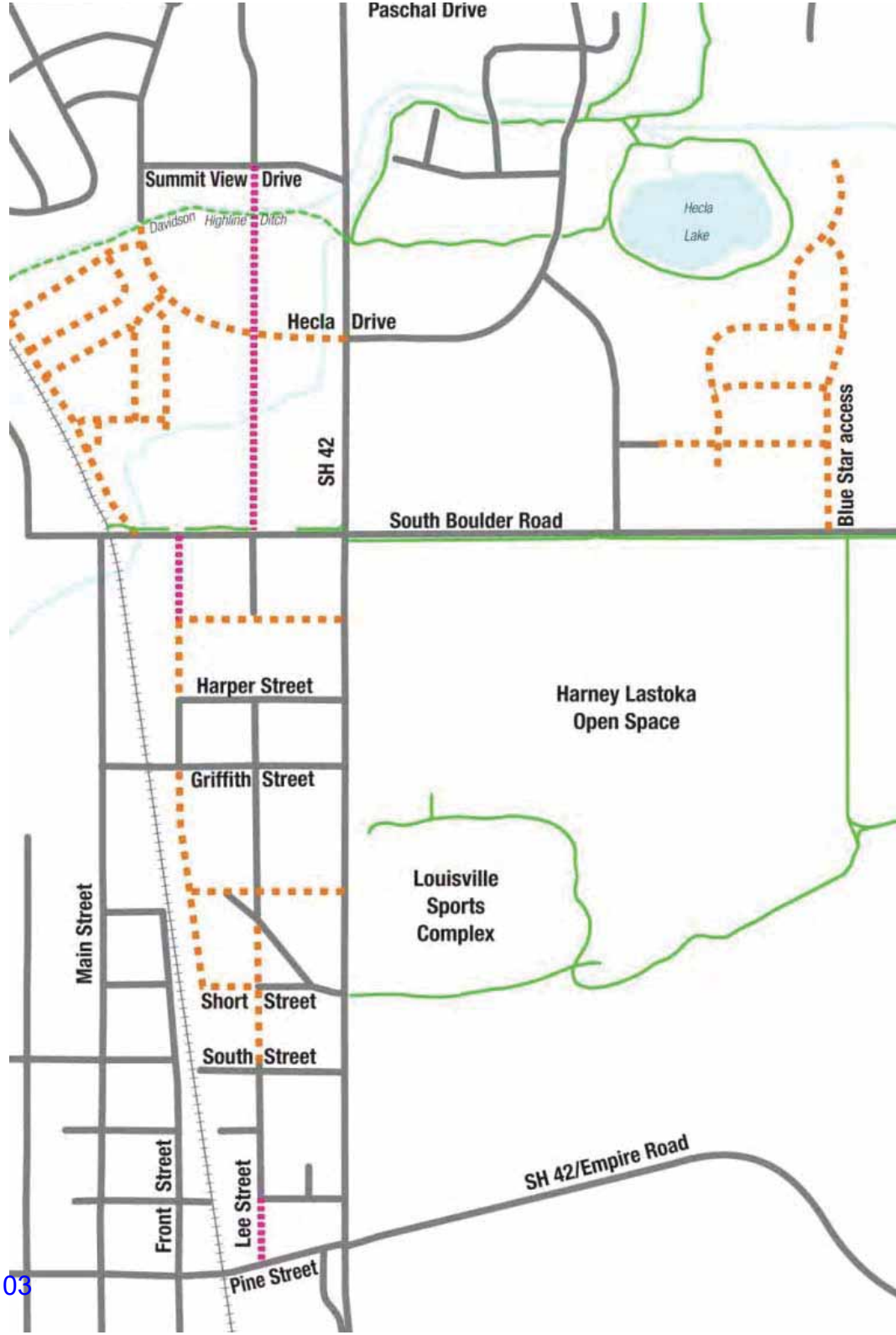
NAMS

BRT Service Along Corridor

42 Road Network

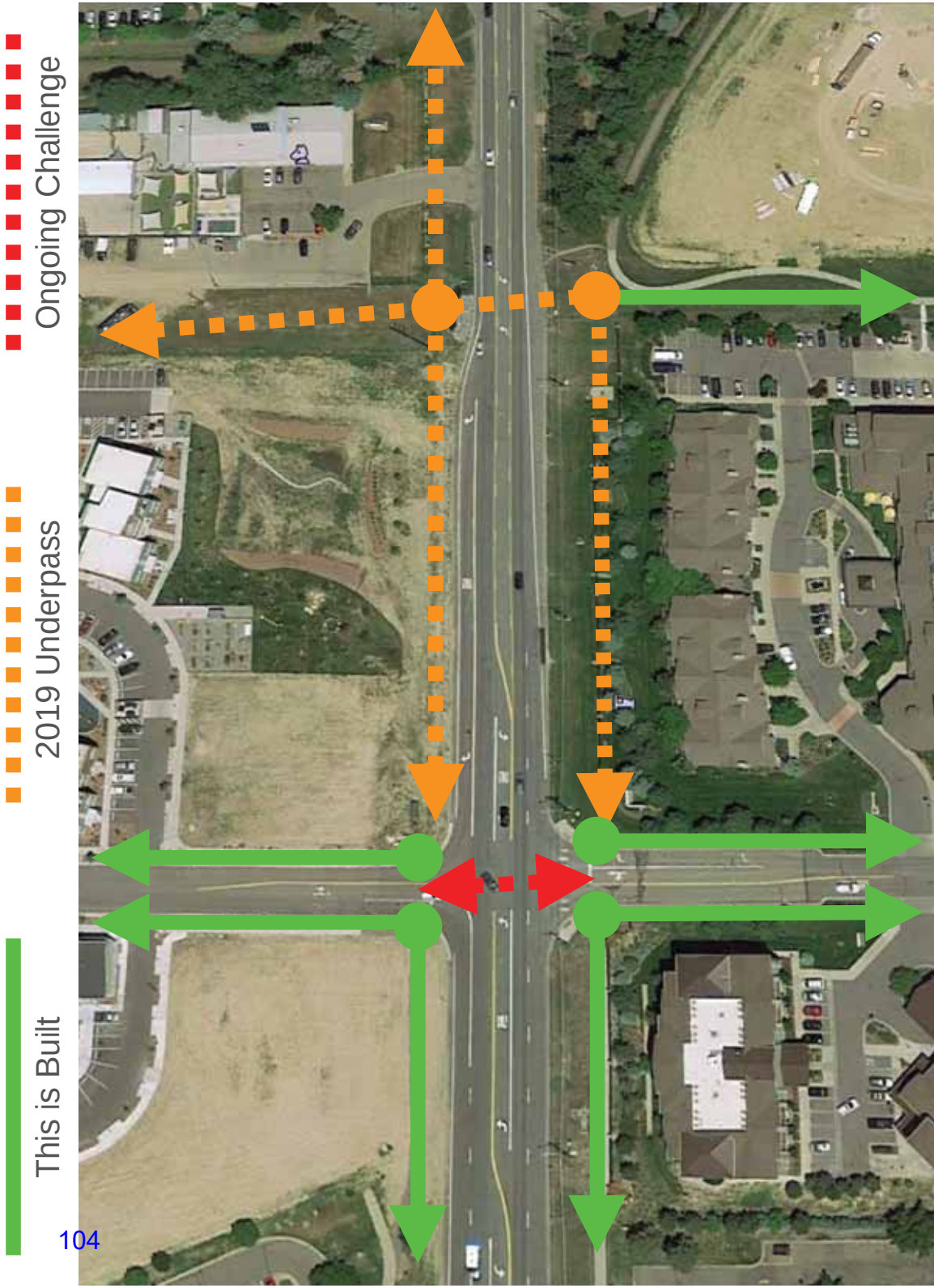
What Was Planned vs. Reality

- **Secondary Network** of Kaylix, Cannon, and Lee Street not likely to be built.
- **CDOT** doesn't recommend signals without warrants.
- **CDOT** doesn't recommend **Offset Left** pedestrian refuge islands.
- **Cannon Signal** not feasible due to its effect on South Boulder Road Intersection. Staff recommends against it.
- Private interest in **Kaylix** extension is mixed.
- Traffic Signal at **Kaylix** will be difficult to operate within close proximity to SBR and BNSF.
- **Bus Service** will be challenging with limited space.



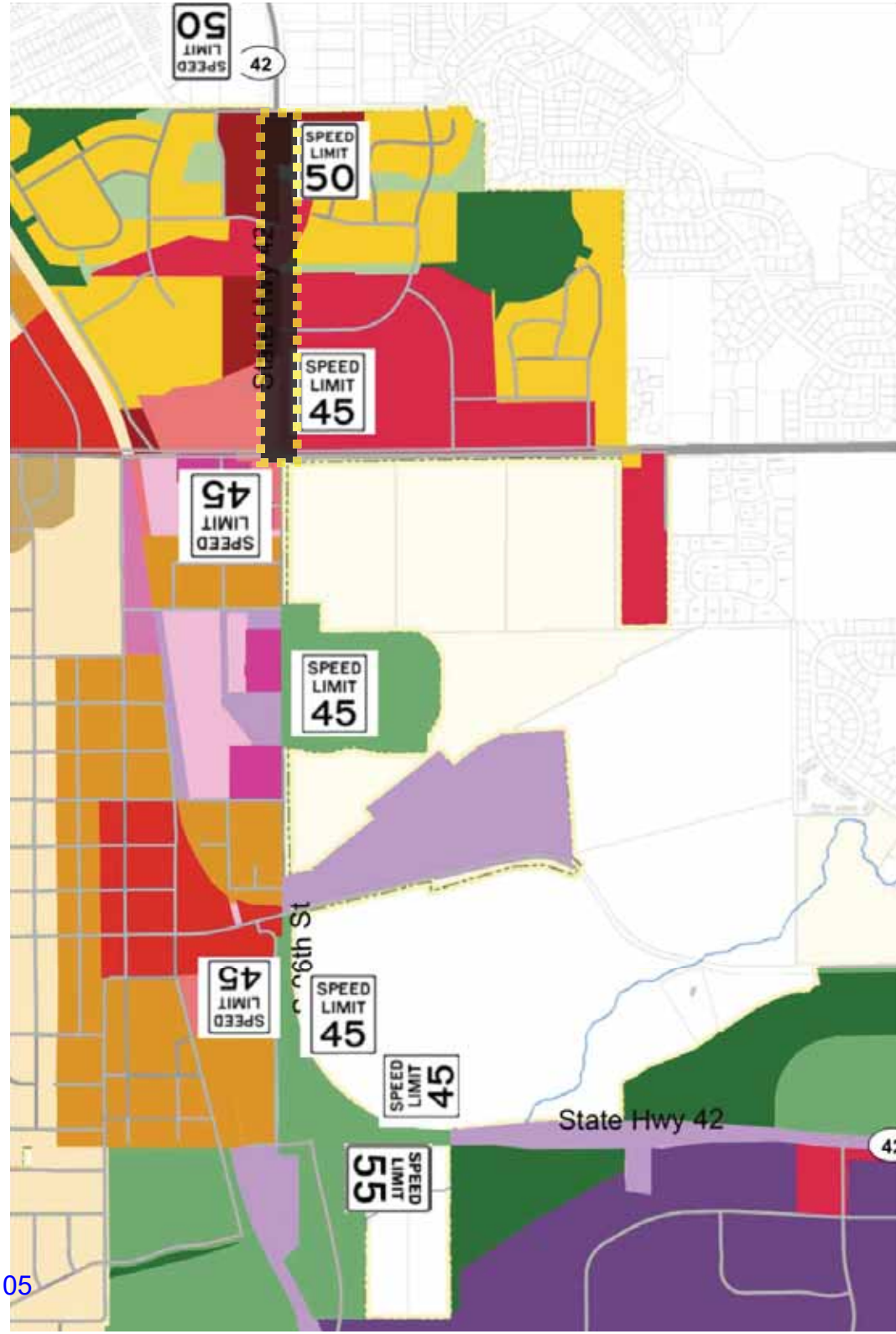
Hecla Area

- **Underpass** is on track to bid and be constructed in **2019**.
- **Hecla Signal** **has not met** CDOT warrant requirements.
- **ADA Accessibility Study** is being initiated for the area by staff (including South Boulder Road Intersection).
- If the Hecla Signal cannot be installed the City will work with CDOT to design a safe crossing with pedestrian refuges.
- Flashing Beacons are generally unsafe with multiple lanes in each direction on high speed/volume roads.



Hwy 42 Speed

- CDOT will not change the speed without a speed study.
- The 85th Percentile speed limit when studied becomes the prevailing speed limit.
- It is likely if a speed study is performed that the overall speed limit would remain at 45 mph.
- Staff will continue to pursue a speed reduction with CDOT from Paschal to SBR to 45 mph.
- Additional speed reductions will be difficult unless infrastructure is built to physically slow down speeds.



Corridor Character

- Athletic Fields
- Open Space
- Retail
- Homes
- Affordable Housing
- Senior Housing
- Industrial

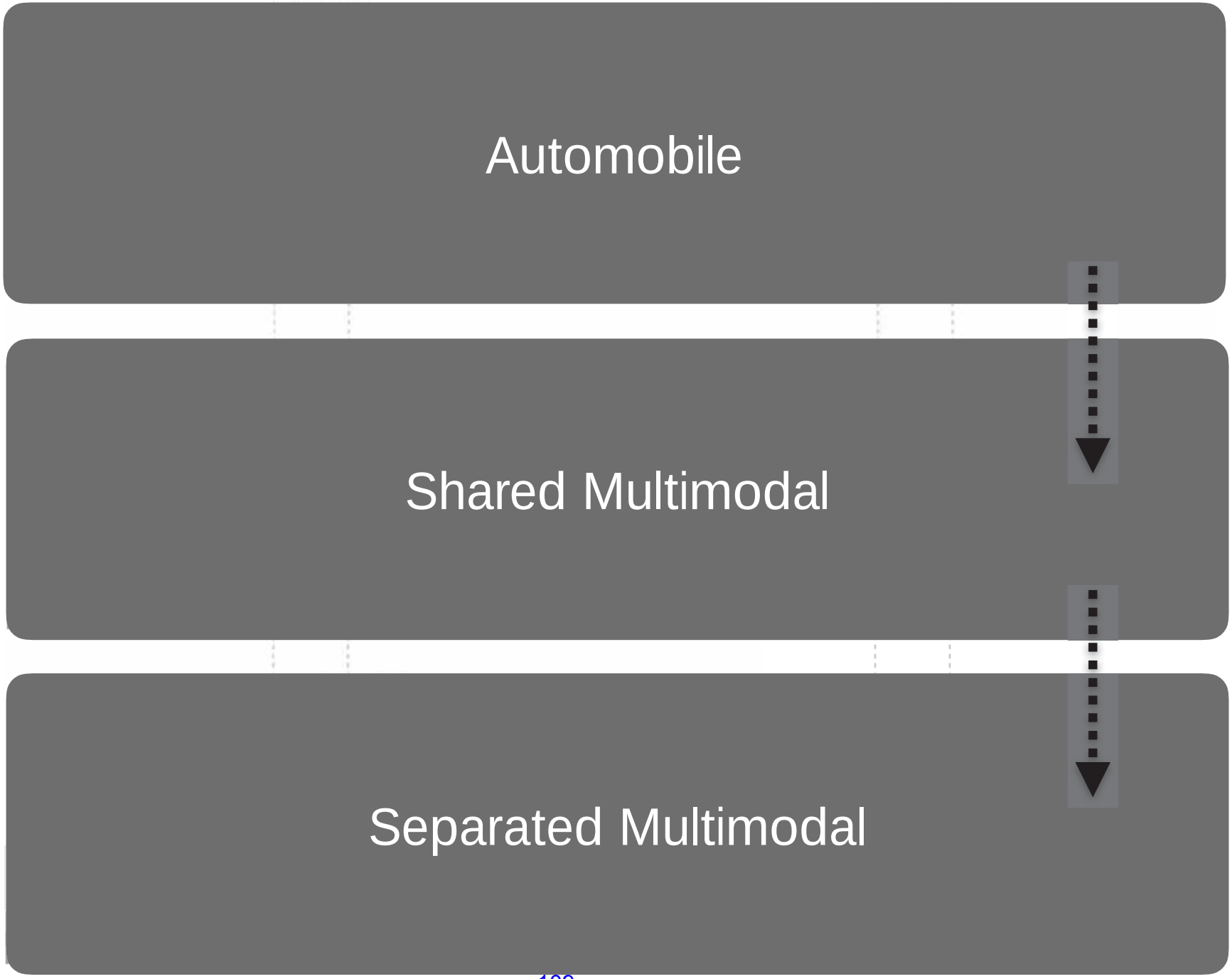
Hwy 42 **Adjacent Uses** and **Connectivity**

Retail | Industrial | Residential | Affordable/Senior | Recreation/Open Space

Lafayette Sports Complex Visualization

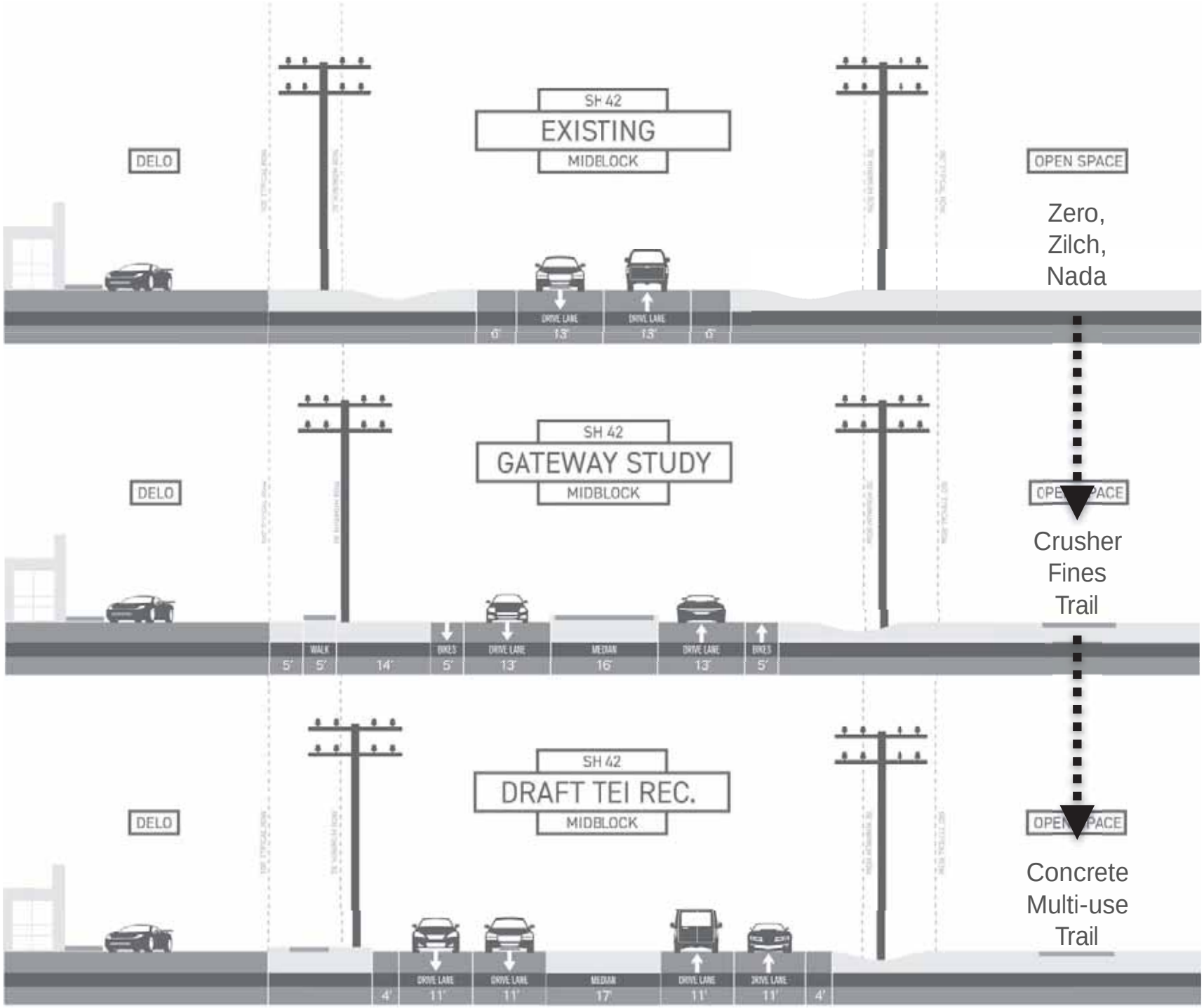
Evolution of Corridor Planning

Within Existing ROW

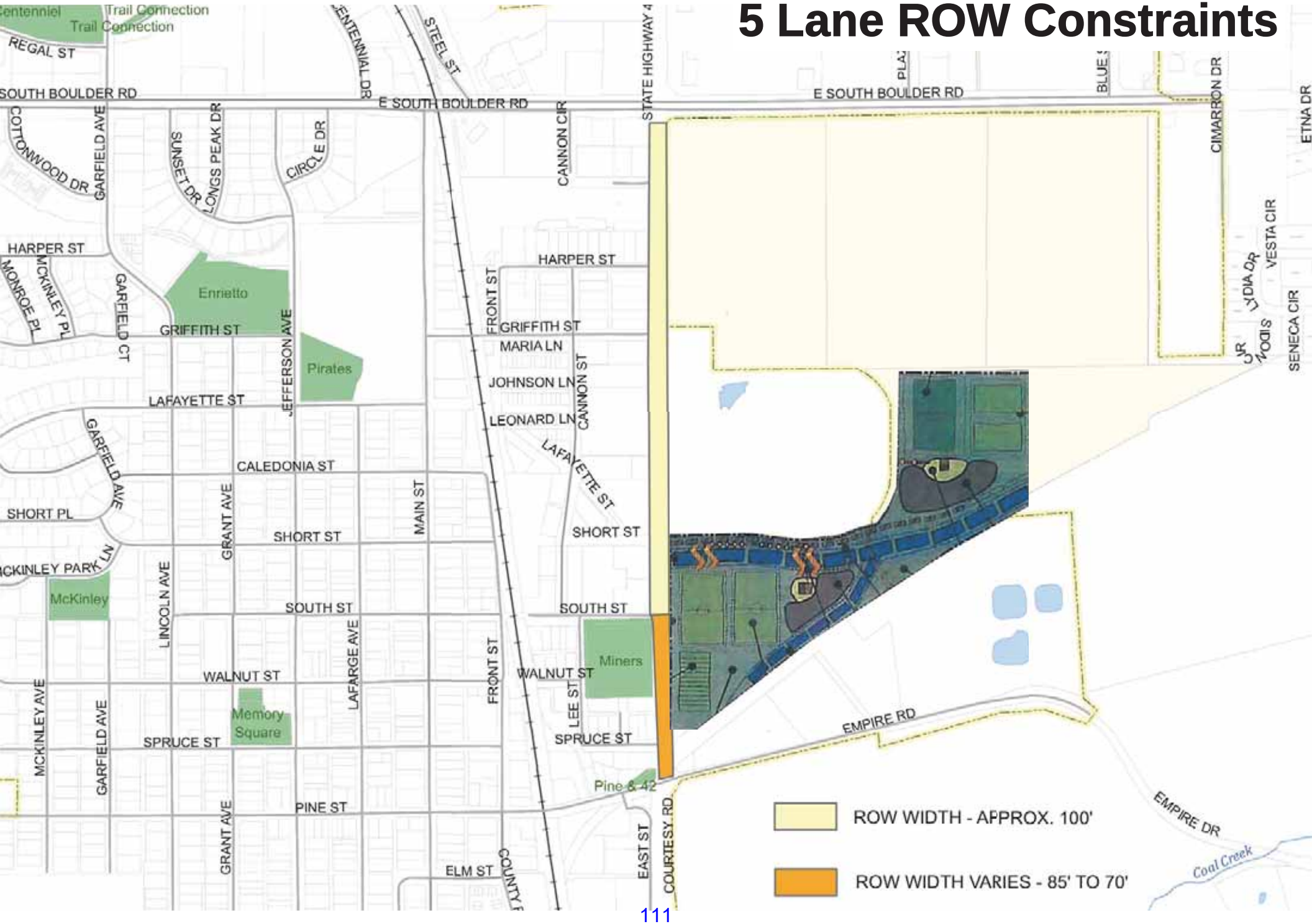


Evolution of Corridor Planning

Within Existing ROW



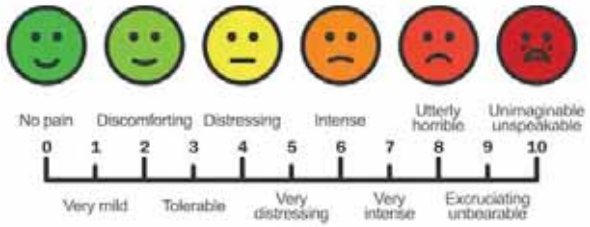
5 Lane ROW Constraints



Sidewalk Connections Near Miners Field

Highway 42 Perceptions

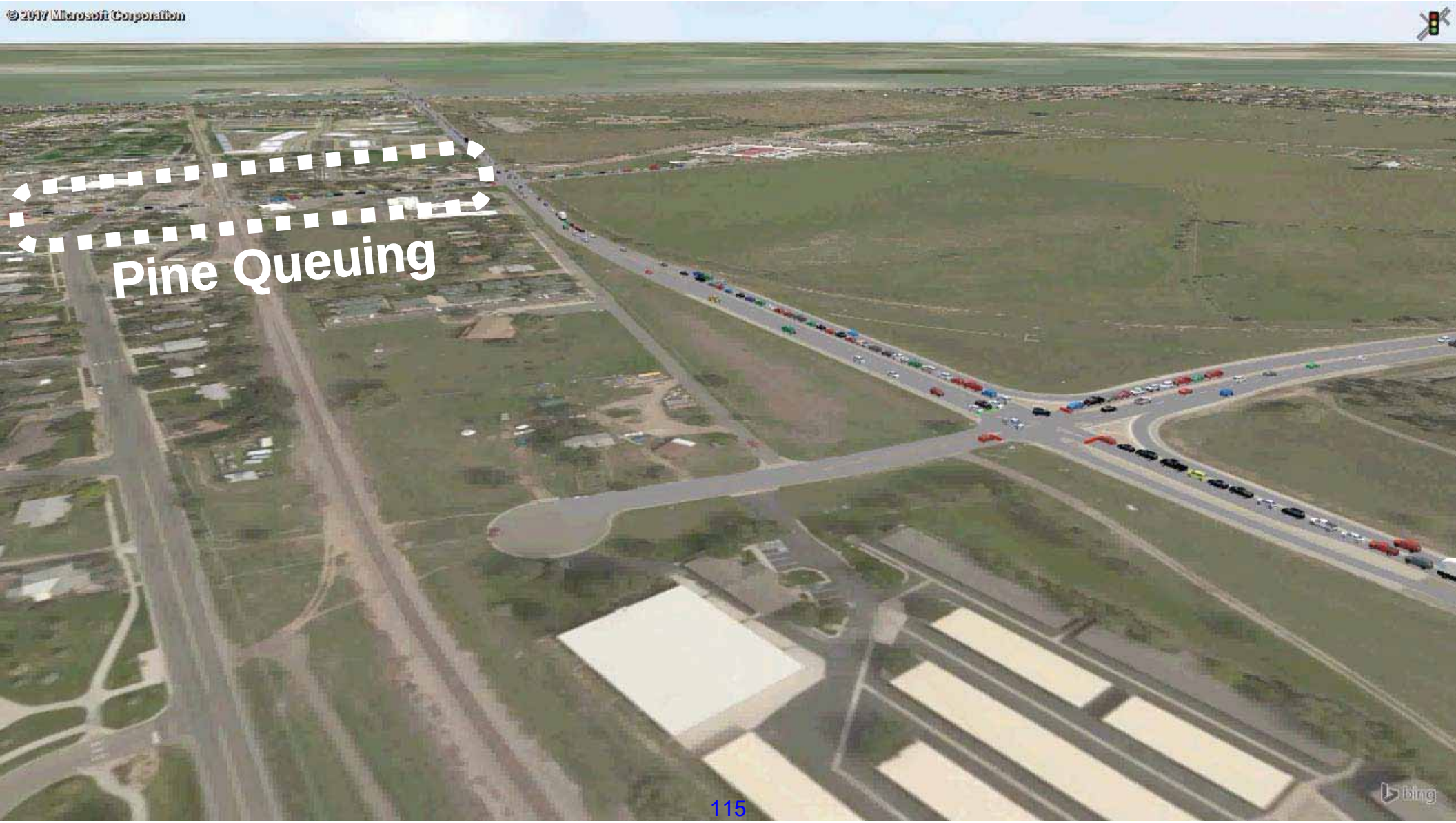
Subjective Observations According to Kurt for a Starting Point



	Today	Near Future 0 - 5 yrs	Buildout 3 Lane	Buildout 5 Lane w/ Underpass
Cars	😐	😐 🙁	🙁	🙂
Bikes Onstreet	☹️	☹️	🙁	☹️
Bikes Offstreet	☹️	☹️	😐	🙂
People	☹️	😐	🙂	🙂
Bus	☹️	☹️	🙁	🙂
Rail	🤔	🤔	🙁	🙂
Connectivity	😡	😐	🙂	🙂
Eco Dev	😡	🙂	🙂	🙂
Open Space/Rec	🙂	🙂	🙂	🙂
Rural Aesthetic	🙂	😐	🙁	🙁

Traffic Simulation - 2040 No Action

Traffic Simulation - 2040 3 Lane



Traffic Simulation - 2040 5 Lane

CITY COUNCIL COMMUNICATION
AGENDA ITEM 8B

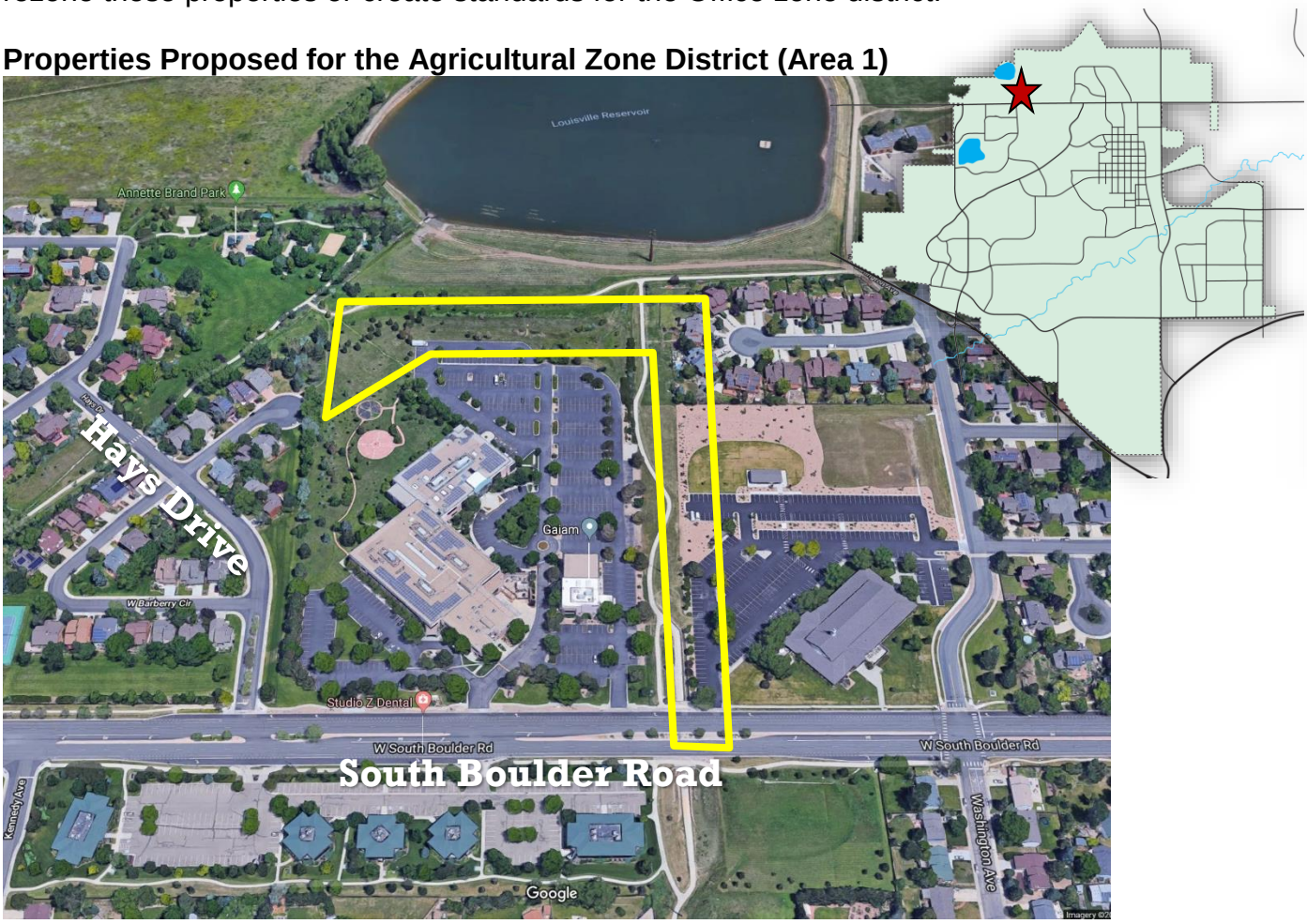
SUBJECT: **ORDINANCE NO. 1768, SERIES 2019 – AN ORDINANCE REZONING OF CERTAIN PROPERTIES FROM THE OFFICE ZONE DISTRICT TO THE AGRICULTURAL AND ADMINISTRATIVE OFFICE ZONE DISTRICTS – 1st READING, SET PUBLIC HEARING 1/22/18**

DATE: **JANUARY 8, 2019**

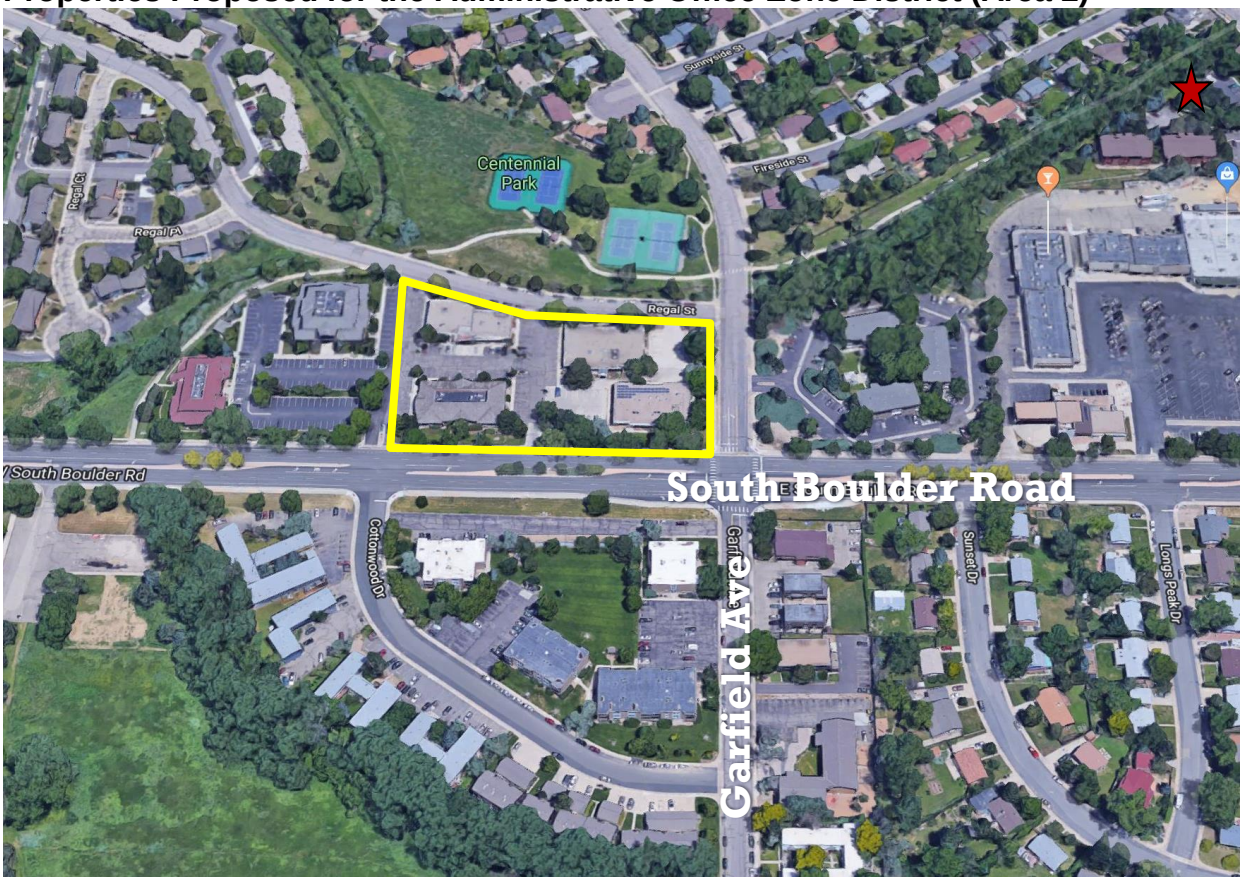
PRESENTED BY: **LISA RITCHIE, PLANNING & BUILDING SAFETY DEPARTMENT**

SUMMARY:
Staff is presenting an ordinance to rezone certain properties from the Office zone district to the Agricultural (Area 1) and Administrative Office (Area 2) zone district. The City repealed the Office zone district from the Louisville Municipal Code in 1984, but never rezoned several properties zoned Office to a valid zone district. In order to address this discrepancy, the City Council 2018 work plan included direction for planning staff to rezone these properties or create standards for the Office zone district.

Properties Proposed for the Agricultural Zone District (Area 1)



Properties Proposed for the Administrative Office Zone District (Area 2)



BACKGROUND:

Agricultural Zone District Property (Area 1)

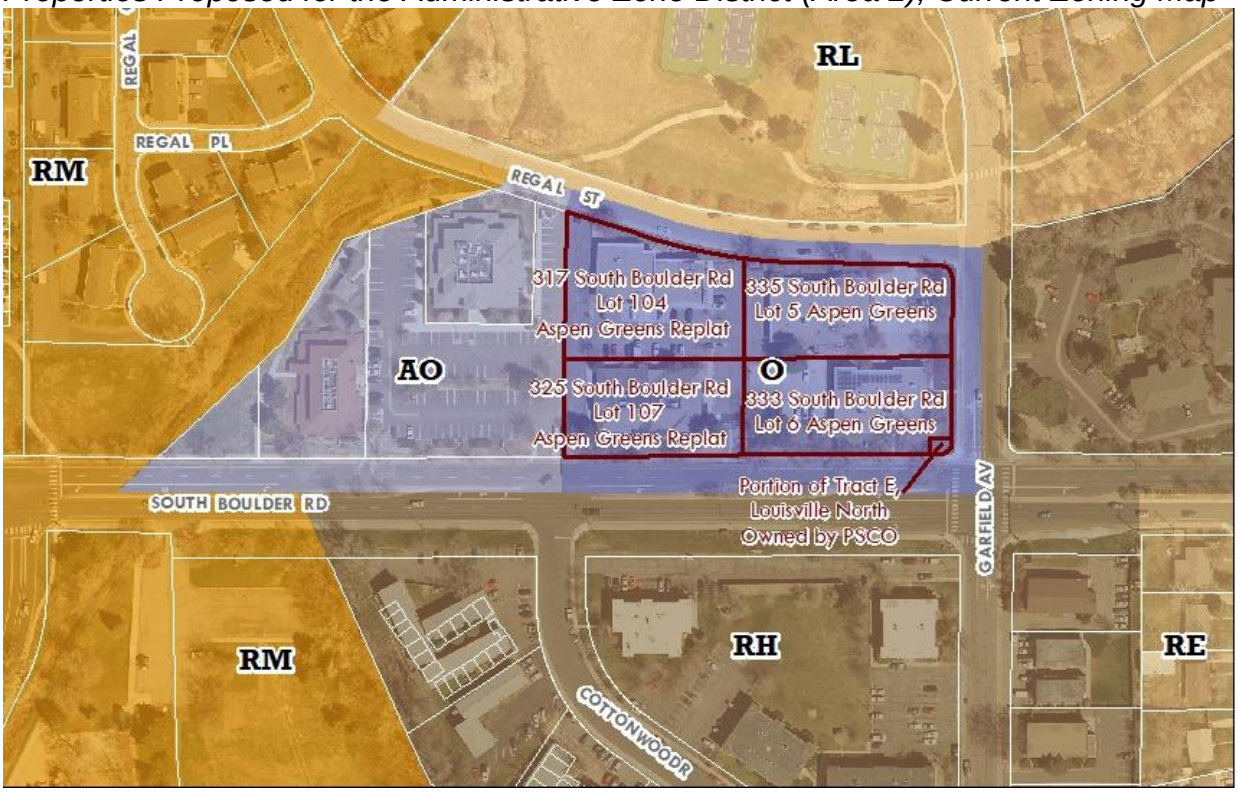
The City annexed and zoned the Area 1 properties Office in 1981 as part of the Biological Sciences Annexation. The annexation included Lot 1, Neodata (833 South Boulder Road), which the City rezoned to Business Office earlier this year, pursuant to Ordinance 1757, 2018. The remaining two properties that were zoned Office in 1981 are owned by the City of Louisville and Public Service Company of Colorado (Xcel). The legal descriptions for these properties are included as an attachment to the draft ordinance. The properties are undeveloped and concrete trails traverse each. Staff recommends rezoning the properties to the Agricultural zone district for consistency with other adjacent city-owned property.

Properties Proposed for the Agricultural Zone District (Area 1), Current Zoning Map

Administrative Office Zone District Property (Area 2)

The City annexed the Area 2 properties in 1973. The Area 2 properties were zoned Residential High Density (RH), as part of Ordinance 424, Series 1973. In 1980, the City rezoned Lots 5 and 6, Aspen Greens (333 and 335 South Boulder Road) and the remaining portion of Tract E owned by Xcel to the Office zone district, pursuant to Ordinance 695, Series 1980. In 1982, the City rezoned Lots 104 and 107, Aspen Greens Replat (317 and 325 South Boulder Road) from RH to Office, pursuant to Ordinance 777, Series 1982. The City has approved a number of PUDs and PUD Amendments since their initial annexation and zoning. The properties are all separately owned and are developed consistent with these PUD approvals and, with the exception of the small property owned by Xcel, each contain one structure.

Properties Proposed for the Administrative Zone District (Area 2), Current Zoning Map



Office Zone District

In 1984, the City repealed the Office zone district and established two new zone districts, Business Office and Administrative Office. Despite the repeal of the Office zone district, these two areas of the City retained the Office zoning. As noted above, the property at 833 South Boulder Road was zoned Business Office earlier this year, which is consistent with Planning Commission discussion in 1984 (see the October 16, 1984 City Council packet attachment) when the Office zone district was repealed. These discussions also indicated that the area along South Boulder Road near Garfield as appropriate for the Administrative Office zone district, which is the proposed zone district for Area 2 of the application.

PROPOSAL:

Area 1

The proposed ordinance rezones the Area 1 properties to the Agricultural zone district, which is consistent with the zoning for other properties in the area that the City owns and uses in a similar manner. This zone change will not require any change in management or use, and the existing trails and Xcel overhead transmission lines will remain. The City's zoning use group table (LMC Sec. 17.12.030) does not explicitly call out parks or recreational trails in any of the City's zone districts, however, recreational trails are commonly developed in the Agricultural zone. The City of Louisville Parks and Recreation staff reviewed the request and have no concerns. Xcel has provided

written authorization for the rezoning of their property from Office to the Agricultural zone district.

The Louisville Municipal Code describes the Agricultural zone district as:

Agricultural A: *The agricultural A district is comprised of areas which are primarily in a natural state, are utilized for the growing of crops and plant materials or where similar farming activities are practiced, or are appropriate for very low density residential use.*

Area 2
The proposed ordinance rezones the Area 2 properties to the Administrative Office zone district. This action will not impact the previous approval of PUDs for the properties, and the Office zone district and Administrative Office zone district use tables are similar, and are provided as attachments. Staff does not anticipate impacts to the existing property owners or tenants related to how they currently use the property. This is also consistent with the zoning for the properties immediately to the west.

Staff received written authorization from Xcel, and from three of the four private property owners at the time of this report. Staff has made multiple attempts to contact all property owners, including sending regular and certified letters notifying them of the proposed zone change. LMC Sec. 17.44.010 allows the City to initiate a rezoning without property owner authorization.

The LMC describes the Administrative Office zone district as:

Administrative office A-O*. The administrative office A-O district is intended for nonretail use, mainly of a personal service nature. It is intended to have less impact than commercial uses in terms of traffic, types of use, advertising, and hours of operation and shall not have significant adverse impact upon residential uses. The applicant must demonstrate that uses proposed for the area in question shall meet the above criteria. In addition, limitations on the size of building sites, lot coverage, and other requirements shall exist; specifically, no parcel greater than three acres shall be an administrative office zone unless the parcel has been zoned office (O) prior to July 1, 1984.*

ANALYSIS:
Compliance with LMC Sec. 17.44.050 – Rezoning
The rezoning proposal is subject to Section 17.44.050 of the Louisville Municipal Code, the Declaration of Policy for Rezoning. One or more of the following criteria must be met to approve a rezoning:

1. *The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the city's comprehensive plan.*

There is evidence of an error in the zoning of the property. As noted above, the City zoned the properties Office in 1980, 1981 and 1982, and repealed that zone district in 1984, leaving the properties with a zoning designation that is not currently included in the Louisville Municipal Code. This results in property with no clear use or development standards. Approving this zone change request to Agricultural and Administrative Office provides clarity for the properties.

The Comprehensive Plan discusses the role of the Comprehensive Plan as advisory, while the LMC is regulatory with respect to zoning and allowed uses. As currently zoned, the properties are inconsistent with the Comprehensive Plan because there are no clear zone district uses and standards that apply. Rezoning the properties is consistent with the Framework in the Comprehensive Plan that includes the subject property as a Suburban Corridor.

The Comprehensive Plan identifies Area 1 as part of the South Boulder Road Suburban Corridor (west of Via Appia), and includes both residential and commercial land uses, with properties setback from the roadway or buffered with landscaping. These particular parcels are identified as parks and open space land uses, and are noted as areas of stability. This zone change request will result in consistency with the policies and goals of the Comprehensive Plan.

Area 2 is part of the South Boulder Road Small Area Plan, which identifies this area as Office. Planning Commission minutes from the 1984 zoning ordinance amendment indicate a possible intent to rezone the property as Administrative Office. Based on this record, and consistency with the Comprehensive Plan, staff finds the Administrative Office district is an appropriate zone district for the rezoning and compatible with the surrounding area. **Staff finds the request meets this criterion.**

2. *The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.*

Staff finds that the area is not changing to such a degree that it is in the public interest to encourage redevelopment of the area. Rather, this request confirms the existing development of the property in Area 1 as undeveloped lands with trails, and the property in Area 2 as office. **Staff finds this criterion is not applicable.**

3. *The proposed rezoning is necessary to provide land for a community-related use which was not anticipated at the time of the adoption of the city's comprehensive plan, and such rezoning will be consistent with the policies and goals of the comprehensive plan.*

The rezoning is not necessary to provide land for a community-related use. **Staff finds this criterion is not applicable.**

4. *The rezoning would only permit development which, if evaluated as a proposed annexation under the annexation standards and procedures codified in Title 16, would qualify for annexation.*

The properties are already annexed and within the corporate limits of the City of Louisville. **Staff finds this criterion is not applicable.**

PLANNING COMMISSION ACTION:
Planning Commission continued a public hearing on December 13, 2018 due to lateness of the meeting to the January 10, 2019 Planning Commission hearing. Staff will update the council communication for the City Council public hearing/2nd reading scheduled for January 22, 2019 with the Planning Commission minutes and recommendation from the January 10, 2019 Planning Commission meeting.

FISCAL IMPACT:
Staff does not anticipate a significant fiscal impact to the City.

RECOMMENDATION:
Staff recommends City Council approve Ordinance 1768, Series 2019 to rezone certain properties from the Office zone district to the Agricultural and Administrative Office zone districts on first reading, send the ordinance out for publication and set the public hearing for January 22, 2019.

ATTACHMENT:
1. Ordinance 1768, Series 2019
2. Existing Zone District Map
3. City Council Packet, October 16, 1984
4. Ordinance 692, Series 1980 – Office zone district use table
5. Link to Sec. 17.12.030 – Administrative Office use groups
6. Authorization from Xcel
7. Authorization from property owner of 325 South Boulder Road
8. Authorization from property owner of 317 South Boulder Road
9. Authorization from property owner of 335 South Boulder Road

ORDINANCE NO. 1768
SERIES 2019

AN ORDINANCE APPROVING THE REZONING OF CERTAIN PROPERTIES FROM THE OFFICE ZONE DISTRICT TO THE AGRICULTURAL AND ADMINISTRATIVE OFFICE ZONE DISTRICTS

WHEREAS, the City of Louisville zoned certain parcels of real property to the Office (O) Zone District pursuant to Ordinance No. 695, Series 1980, Ordinance No. 714, Series 1981, and Ordinance No. 777, Series 1982 and which parcels are legally described on Exhibits A and B, attached hereto and incorporated herein by reference (the "Properties"), and

WHEREAS, the City of Louisville subsequently repealed the Office (O) Zone District zoning designation and established new zone districts, including the Administrative Office (A-O) Zone District in 1984 pursuant to Ordinance 838, Series 1984; and

WHEREAS, the City Council has determined that is necessary and desirable to rezone the Properties because the Office (O) Zone District designation no longer exists within the City; and

WHERAS, the Louisville Planning Commission, during a duly noticed public hearing, has recommended the City Council approve the rezoning of the Properties to either the Agricultural (A) Zone District or the Administrative Office (A-O) Zone District as further described herein; and

WHEREAS, the City Council finds and determines that the proposed rezoning of the Properties to the Administrative Office (A-O) and the Agricultural (A) Zone Districts meets the goals and policies in the City's Comprehensive Plan; and

WHEREAS, the City Council, after proper notice as required by law, has held a public hearing on this ordinance providing for the rezoning of the Properties to the Administrative Office (A-O) and Agricultural (A) zone districts; and

WHEREAS, no protests were received by the City pursuant to C.R.S. §31-23-305;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Pursuant to the zoning ordinance of the City, those certain parcels legally described in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned Agricultural (A), and the City zoning map shall be amended accordingly.

Section 2. Pursuant to the zoning ordinance of the City, those certain parcels legally described in Exhibit B, attached hereto and incorporated herein by reference, are hereby rezoned Administrative Office (A-O), and the City zoning map shall be amended accordingly.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council

hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. All other ordinances or portions thereof inconsistent or in conflict with this ordinance or any portion hereof are repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 8th day of January, 2019.

_____
Robert Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

_____
Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 22nd day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

Exhibit A

Properties to be zoned Agricultural (A)

A strip of land located in the SW ¼ of Section 6, T1S, R69W of the 6th P.M., described as follows:

Commencing at the S ¼ Corner of said Section 6, thence N0°42’30” E, 972.73 feet along the East line of the SW ¼ of said Section 6 to the TRUE POINT OF BEGINNING:

Thence S89°38’00”W, 411.08 feet parallel with the North line of that tract of land conveyed to Biological Sciences Curriculum Study, Co. as described in Warranty Deed recorded on Film 811 as Reception No. 058590 of the records of Boulder County, Colorado;

Thence S45°00'00"W, 327.36 feet to the West line of that tract of land as described on said Film 811 as Reception No. 058590;

Thence N0°03’00”W, 305.00 feet along the West line of that tract of land as described on said Film 811 as Reception No. 058590 to the Northwest Corner thereof;

Thence N89°38’00"E, 643.76 feet along the North line of that tract of land as described on said Film 811 as Reception No. 058590 to the East line of the SW 1/4 of said Section 6;

Thence S0°42’30”W, 75.01 feet along the East line of the SW 1/4 of said Section 6 to the TRUE POINT OF BEGINNING.

COUNTY OF BOULDER, STATE OF COLORADO.

The West 75 feet of the SW ¼ SE ¼ of Section 6, T1S, R69W, of the 6th Principal Meridian, EXCEPT that part thereof described in deed to The Town of Louisville, recorded in Book 163 at Page 497.

Exhibit B

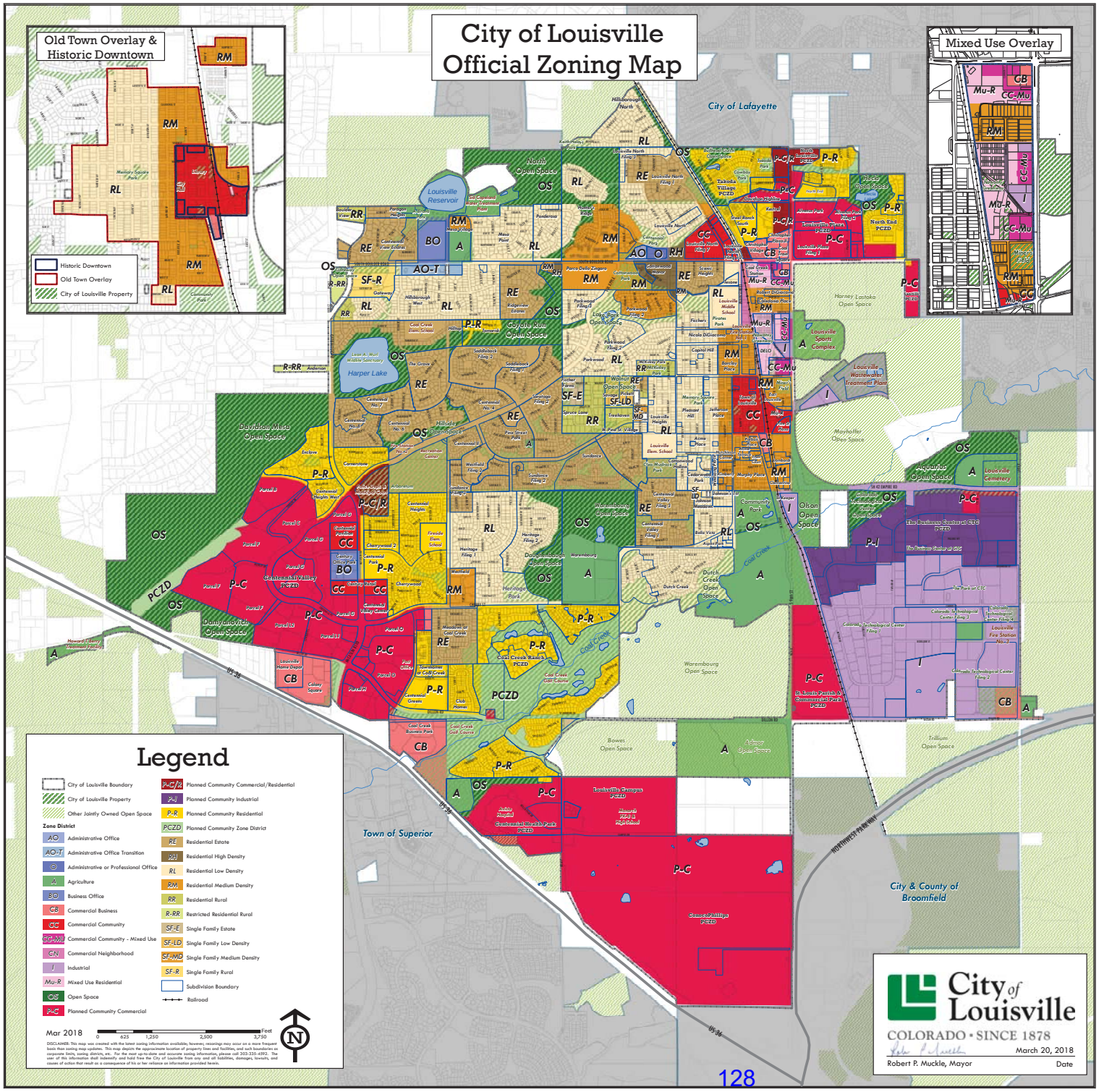
Properties to be zoned Administrative Office (A-O)

Lots 104 and 107, Aspen Greens Replat Subdivision, City of Louisville, County of Boulder, State of Colorado

Lots 5 and 6, Aspen Greens Subdivision, City of Louisville, County of Boulder, State of Colorado

Tract E, Louisville North First Filing Subdivision, City of Louisville, County of Boulder, State of Colorado, less that portion replatted within Aspen Greens Subdivision

City of Louisville Official Zoning Map



CITY OF LOUISVILLE

REGULAR MEETING
LOUISVILLE CITY HALL
749 MAIN STREET

CITY COUNCIL AGENDA

7:30 P.M. M.D.T.
OCTOBER 16, 1984

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1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE CONSENT AGENDA

Those items on the Council Agenda which are considered routine by the City Administrator and the City Clerk shall be marked with an Asterisk (*) and, those items so marked shall be approved, adopted, accepted, etc. by motion of the City Council, and roll call vote unless the Mayor or a City Council person specifically request that such item or the agenda marked, be considered under the "Regular Order of Business". In such event the item shall be removed from the Consent Agenda, and Council action taken separately on said item in the order appearing on the agenda. Those items so approved under the heading "Consent Agenda" will appear in the Council Minutes in their proper form.

*4. APPROVAL OF THE REGULAR AGENDA

*5. APPROVAL OR CORRECTION OF THE MINUTES

*6. APPROVAL OF THE BILLS

*7. ITEMS ENCLOSED

A. INFORMATION - FACTS ABOUT THE BETTER AIR CAMPAIGN

B. FUNDING REQUEST - BOULDER COUNTY CRIME STOPPERS

C. LETTER - IRWIN BUILDING PERMIT REQUEST

D. LETTER - WILSON/THOMAS ANNEXATION REQUEST

E. COLACCI'S RESTAURANT - LIQUOR LICENSE RENEWAL APPLICATION

F. SOUTHLAND CORPORATION/7-11 STORE LIQUOR LICENSE RENEWAL APPLICATION

G. INTERGOVERNMENTAL AGREEMENT (OPEN SPACE)/BOULDER COUNTY-LAFAYETTE - LOUISVILLE

H. ORDINANCE NO. 838 - OFFICE ZONE

I. ORDINANCE NO. 843 - WATER TAP FEE INCREASE

J. ORDINANCE NO. 844 - ELECTRIC FENCES

K. ORDINANCE NO. 847 - CENTENNIAL VALLEY SUBDIVISION FILING #2 - ROW VACATION

L. RESOLUTION NO. 25 - 1985 MILL LEVY

M. RESOLUTION NO. 26 - THE CENTER AT LOUISVILLE - PUD/SPECIAL REVIEW USE

N. RESOLUTION NO. 27 - BLUE PARROT KITCHEN ADDITION - PUD

O. RESOLUTION NO. 28 - CENTENNIAL VALLEY SUBDIVISION FILING #2 - REPLAT

P. JICINSKY CONSTRUCTION - FINAL PAY REQUEST MIDDLE SCHOOL PARK DRAINAGE

Q. MIDWEST - FINAL PAY REQUEST - SANITARY SEWER REPLACEMENT PROJECT

R. VARRA COMPANIES, INC. - PAY REQUEST #2 - SOUTH BOULDER ROAD IMPROVEMENTS

S. TECHNOLOGY CONSTRUCTORS - PAY REQUEST #2 - HERITAGE PARK

T. PUBLIC WORKS EQUIPMENT/SEWER JET - AWARD BID

U. PUBLIC WORKS EQUIPMENT/BACKHOE - AWARD BID

V. ZLATEK - WATER LEASE AGREEMENT - MARSHALL LAKE WATER

W. HICKS/HAMILTON - WATER SALE AGREEMENT - 1 SHARE MARSHALL LAKE WATER

8. PUBLIC COMMENTS

9. GENERAL COUNCIL ITEMS

A. PRESENTATION - FACTS ABOUT THE BETTER AIR CAMPAIGN - MRS. KAVIN KUDEBEH

B. FUNDING REQUEST - BOULDER COUNTY CRIME STOPPERS

C. IRWIN BUILDING PERMIT REQUEST

D. WILSON / THOMAS ANNEXATION REQUEST

*E. COLACCI'S RESTAURANT LIQUOR LICENSE RENEWAL APPLICATION

*F. SOUTHLAND CORPORATION (7-11 STORE) LIQUOR LICENSE RENEWAL APPLICATION

G. INTERGOVERNMENTAL AGREEMENT (OPEN SPACE) / BOULDER COUNTY LAFAYETTE - LOUISVILLE

H. DISCUSSION - ANNEXATION REQUEST TO BROOMFIELD (U.S. 36 AND 96TH STREET)

10. CITY ATTORNEY'S REPORT

A. ORDINANCE NO. 838 - OFFICE ZONE 2ND READING
PUBLIC HEARING

B. ORDINANCE NO. 843 - WATER TAP FEE INCREASE 2ND READING
PUBLIC HEARING

C. ORDINANCE NO. 844 - ELECTRIC FENCES 2ND READING
PUBLIC HEARING

D. ORDINANCE NO. 847 - CENTENNIAL VALLEY SUBDIVISION FILING #2
ROW VACATION 1ST READING
SET PUBLIC HEARING

E. RESOLUTION NO. 25 - 1985 MILL LEVY

F. RESOLUTION NO. 26 - THE CENTER AT LOUISVILLE - FINAL P.U.D./ SPECIAL REVIEW USE

G. RESOLUTION NO. 27 - BLUE PARROT KITCHEN ADDITION - FINAL P.U.D.

H. RESOLUTION NO. 28 - CENTENNIAL VALLEY SUBDIVISION FILING #2 REPLAT

11. CITY ADMINISTRATOR'S REPORT

*A. JICINSKY CONSTRUCTION - FINAL PAY REQUEST - MIDDLE SCHOOL PARK DRAINAGE

*B. MIDWEST - FINAL PAY REQUEST - SANITARY SEWER REPLACEMENT PROJECT

*C. VARRA COMPANIES, INC. - PAY REQUEST #2 - SOUTH BOULDER ROAD IMPROVEMENTS

*D. TECHNOLOGY CONSTRUCTORS - PAY REQUEST #2 - HERITAGE PARK

*E. PUBLIC WORKS EQUIPMENT (SEWER JET) - AWARD BID

*H. PUBLIC WORKS EQUIPMENT (BACKHOE) - AWARD BID

*G. ZLATEK WATER LEASE AGREEMENT - MARSHALL LAKE WATER

*H. HICKS/HAMILTON WATER SALE AGREEMENT - MARSHALL LAKE WATER

12. COUNCIL COMMENTS AND COMMITTEE REPORTS

13. ADJOURNMENT

MEMORANDUM

To: Mayor and City Council Members

From: John Rupp, Acting City Administrator

Date: October 12, 1984

Re: CITY COUNCIL AGENDA FOR THE REGULAR SCHEDULED MEETING OF OCTOBER 16, 1984.

Items 1 thru 7 Explanation is set forth

Item 8 Public Comments

Item 9 GENERAL COUNCIL ITEMS:

A. PRESENTATION - FACTS ABOUT BETTER AIR -
Ms. Karin Kudebeh is the State's coordination of the "Better Air Campaign" and will be present at Tuesday's meeting to provide an overview of the region's program. (20-30 minutes)

B. CRIME STOPPERS FUNDING REQUEST
Letter enclosed.
Also, please see Rod's comments on the funding request.

C. IRWIN BUILDING PERMIT REQUEST
Letter enclosed.
All permits in the OTHER category have been issued for this year. The Building Dept. cannot issue the permit as per Council's direction.

D. WILSON/THOMAS ANNEXATION REQUEST
Letter enclosed
The request does not meet the City Council's current policy on the number of permitted units with any annexation request.

E. COLACCI's RESTAURANT LIQUOR LICENSE RENEWAL
Information enclosed along with the Police Report.

F. SOUTHLAND CORPORATION (7-11 Store) LIQUOR LICENSE RENEWAL
Information enclosed along with the Police Report.

G. INTERGOVERNMENTAL AGREEMENT (OPEN SPACE)
Enclosed is a copy of the draft agreement for Council's review and discussion.
I asked Carolyn Holmberg to be present Tuesday night if you have questions of the County on their portion of the agreement.

H. DISCUSSION - ANNEXATION REQUEST TO BROOMFIELD (U.S.36 AND 96th ST.)

Item 10 CITY ATTORNEY's REPORT

A. ORDINANCE NO. 838 - OFFICE ZONE
Copy enclosed
Public Hearing
Please see the Planning Commission minutes and their discussion on this ordinance.

(City Attorney's Report, Continued...

B. ORDINANCE NO. 843 - WATER TAP FEE INCREASE
Copy enclosed
Public Hearing

C. ORDINANCE NO. 844 - ELECTRIC FENCES
Copy enclosed
Public Hearing

D. ORDINANCE NO. 847 - CENTENNIAL VALLEY SUBDIVISION FILING #2, ROW VACATION
Copy enclosed
Set Public Hearing
This item is related to the Replat for Centennial Valley Subdivision Filing #2, (Item 10 H).

E. RESOLUTION NO. 25 - 1985 MILL LEVY
Copy enclosed.

F. RESOLUTION NO. 26 - THE CENTER AT LOUISVILLE FINAL PUD AND SPECIAL REVIEW USE
Please see the Planning Staff's report along with related maps and Planning Commission minutes on this item.

G. RESOLUTION NO. 27 _ BLUE PARROT KITCHEN ADDITION FINAL PUD.
Please see the Planning Staff's report along with related maps and Planning Commission Minutes on this item.

H. RESOLUTION NO. 28 - CENTENNIAL VALLEY SUBDIVISION FILING #2, REPLAT
Please see the Planning Staff's report along with related maps and Planning Commission Minutes on this item.

Item 11 CITY ADMINISTRATOR'S REPORT:

A - D These items are pay requests and need Council's authorization.

E - F Equipment items for the Public Works Dept. The Bid openings will be Monday. Staff recommendations on the low bids will be presented at Tuesday's meeting.

G - H Water related matters for Council's approval.

Item 12 COUNCIL COMMENTS AND REPORTS

Item 13 ADJOURNMENT

ORDINANCE NO. 838

AN ORDINANCE AMENDING CHAPTER 17.12 OF THE LOUISVILLE MUNICIPAL CODE BY ADDING THE ZONING DISTRICT CALLED BUSINESS OFFICE ZONE AND AMENDING REQUIREMENTS CONCERNING THE ADMINISTRATIVE OR PROFESSIONAL OFFICE ZONE.

WHEREAS, the City Council of the City of Louisville believes a new zoning district should be added to the Louisville Municipal Code known as the Business Office Zone; and,

WHEREAS, the City Council believes it is in the best interests of the citizens of the City to amend the existing Administrative Office Zone in the manner set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 17.12.010 K of the Louisville Municipal Code is hereby repealed.

Section 2. The following subsections are hereby added to section 17.12.010 of the Louisville Municipal Code:

K. Administrative Office A-O. This district is intended for non-retail use, mainly of a personal service nature. It is intended to have less impact than commercial uses in terms of traffic, types of use, advertising, and hours of operation and shall not have significant adverse impact upon residential uses. The applicant must demonstrate that uses proposed for the area in question shall meet the above criteria. In addition, limitations on the size of building sites, lot coverage, and other requirements shall exist, specifically, no parcel greater than 3 acres shall be an administrative office zone unless said parcel has been zoned office (O) prior to July 1, 1984.

L. Business Office B-O. This district is intended for a broader range of uses than the Administrative Office zone, including limited commercial activities. This district and activities therein would be suitable for location in areas of higher intensity of use, with any development being adequately landscaped and integrated within itself in terms of urban design, traffic circulation, pedestrian usage, and land use. The limited commercial activity in this

10A

zone shall not be located in a free standing building separate from structures where approved uses exist. In addition, no commercial uses shall occupy more than 20 per cent of the gross square footage of a development in this zone.

M. Restricted Rural Residential $R\text{-}R_R$. This district is intended to provide very large lots of a rural character for very limited single family development. The minimum lot size in this zone shall be 20,000 square feet, however, there shall be no more than one residential unit constructed upon any parcel of less than five acres and no more than one unit per five acres or portion thereof for parcels over five acres.

Section 3. The following amendments shall be made to the applicable zoning districts as set forth in Section 17.12.030 of the Louisville Municipal Code as set forth below:

	Use Groups	Districts		
		A-O	B-O	R-RR
1.	Agricultural or commercial crop or animal production	No	No	R
2.	Private horse stables	No	No	R
3.	Public horse stables	No	No	No
4.	Single-family dwellings	No	No	Yes
5.	Multi-unit dwellings	No	R	No
6.	Boardinghouses and lodginghouses	No	No	No
7.	Mobile home parks	No	No	No
8.	Hotels and motels, including restaurants and other incidental commercial uses inside the principal building	No	R	No
9.	Public and private schools (other than items 10, 11 and 12)	R	R	R
10.	Family care home	No	No	Yes
11.	Child care center	R	R	No
12.	Vocational and business schools	R	Yes	No
13.	Hospitals	No	R	No

14.	Rest, nursing and retirement homes	No	R	No
15.	Churches, chapels, temples and synagogues	R	R	R
16.	Private recreational and social facilities, such as tennis clubs, swimming clubs and golf courses	No	R	R
17.	Campgrounds, gun clubs and shooting ranges	No	No	No
18.	City, county, state and federal uses and buildings	R	R	R
19.	Private utility uses	R	R	R
20.	Municipal sewage-treatment plants and solid waste disposal site and facilities	No	No	No
21.	Airports	No	No	No
22.	Cemeteries	No	No	R
23.	Mortuaries and funeral chapels	No	R	No
24.	Personal services, including but not limited to barbershops and beauty shops, dry-cleaning outlets, self-service laundries, shoe-repair shops and similar activities	R	Yes	No
25.	Establishments for retailing of convenience goods, including but not limited to variety stores, supermarkets, hardware stores, sporting goods stores, shoestores and drugstores	No	R	No
26.	Establishments for the retailing of shoppers goods, including but not limited to department stores or major comparison goods stores	No	No	No
27.	Furniture and appliance repair	No	No	No
28.	Establishments for a wide variety of commercial uses, including but not limited to			

	animal hospitals, kennels, public garages, carwashes, cleaning laundry plants, cold storage lockers, nursery stock production and sales, building material and equipment dealers and wholesaling services	No	No	No
29.	Medical and dental clinics, professional and business offices, financial institutions, small animal clinics	Yes	Yes	No
30.	Membership clubs, lodges and fraternal organizations	R	R	No
31.	Indoor eating and drinking establishments	No	R	No
32.	Indoor commercial amusement establishments	No	R	No
33.	Massage parlors and/or establishments	No	No	No
34.	Outdoor commercial amusement	No	No	No
35.	Sales and repair of motor vehicles, outdoor sales and repair (appliances, retail goods, eating and drinking establishments, etc), rental facilities	No	No	No
36.	Automobile parking lots	R	R	R
37.	Automobile parking garages	No	R	No
38.	Gasoline service stations	No	R	No
39.	Public garages	No	R	No
40.	General research facilities	R	R	No
41.	Salvage yards	No	No	No
42.	Accessory buildings and uses not including drive through	Yes	Yes	Yes
43.	Commercial/industrial uses, including but not limited to building contractors' equipment yards, transportation centers and services, warehouses, and small storage facilities	No	No	No

44.	Facilities for the manufacturing, fabrication, processing, or assembly of products; provided that such facilities are completly enclosed and provided that no effects from noise, smoke, glare, vibration, fumes or other environmental factors are measurable at the property line	No	No	No
45.	All other facilities for the manufacturing, fabrication, processing or assembly of products; provided that such facilities are not detrimental to the public health, safety and welfare and provided that the following performance standards are met:	No	No	No
46.	Oil and gas exploration and production	No	No	No
47.	Recreational Enterprise	No	No	No
48.	Small child care centers	R	R	Yes
49.	Neighborhood child care centers	R	R	R

Section 4. The following amendments shall be made for the applicable zoning districts as set forth in Section 17.12.040 of the Louisville Municipal Code as set forth below:

17.12.040 Yard and Bulk Requirements

	Yard and Bulk Item	Zoning Districts and Requirements		
		A-O	B-O	R-R
1.	Minimum lot area (sq. ft)[1]	7,000	7,000	20,000*
2.	Minimum lot width (ft.)	60	60	150
3.	Minimum lot area per dwelling unit (sq.ft.)	-----	1,750	20,000*
4.	Maximum lot coverage (% of lot area)	30	40	10
5.	Minimum front yard setback for principal use (ft.)3	25	25	40
	For accessory uses (fs.)	35	35	50

*However, these limitations shall not effect the requirement that there will be no more than one dwelling unit on any parcel of five acres of less within this zone or that there shall be no more than one unit per five acres or portion thereof for parcels over five acres.

6.	Minimum side yard setback from a street for all uses (ft.)3	20	20	40
7.	Minimum side yard setback from interior lot line for principal uses (ft.)4	10	10	20
	For accessory uses (ft.)	5	5	29
8.	Minimum rear yard setback for principal uses (ft.)3	20	20	25
9.	Maximum height principal uses (ft.)	25	40	35
	Accessory use (ft.)	20	20	25

INTRODUCED, READ AND ORDERED PUBLISHED this 4th day of September, 1984.

Mayor

ATTEST:

City Clerk

PASSED ON SECOND AND FINAL READING, this _____ day of _____, 1984.

Mayor

ATTEST:

City Clerk

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the City Counci, City of Louisville concerning the adoption of:

ORDINANCE NO. 838 AN ORDINANCE AMENDING CHAPTER 17.12 OF THE LOUISVILLE MUNICIPAL CODE BY ADDING THE ZONING DISTRICT CALLED BUSINESS OFFICE ZONE AND AMENDING REQUIREMENTS CONCERNING THE ADMINISTRATIVE OR PROFESSIONAL OFFICE ZONE.

DATE: OCTOBER 2, 1984
TIME: 7:30 P.M.
PLACE: CITY HALL, 749 MAIN STREET, LOUISVILLE, COLORADO

All persons in any manner interested in the adoption of Ordinance #838 are invited to attend the public hearing. Copies of the proposed ordinance are available at the Louisville City Hall.

Published in the Louisville Times
September 19, 1984
September 26, 1984

EXCERPT FROM PLANNING COMMISSION MINUTES OCTOBER 9, 1984

ITEM H. ORDINANCE #838, OFFICE ZONE, DISCUSSION

Rautenstraus: In the September packet you were provided with a copy of the Ordinance #838, Office Zone, and in the October packet is a copy of the minutes from City Council on First Reading and discussion on this Ordinance. It was Council's wish that this Ordinance be referred to Planning Commission for any comments you might have, ie, questions, comments, whatever.

Specifically, this Ordinance changes our existing office zone into two (2) distinct office zones; 1) Administrative Office which is meant to be a low intensive, more restrictive office type situation, and 2) Business Office Zone which would allow for some limited commercial activities along with general office development.

2 main questions regarding the Ordinance: a request for Planning Commission review. One: Under the administrative office zone; would Planning Commission agree with the requirements that parcels be no greater than 3 acres in this zone. There was some discussion from Council it might be more appropriate to raise this to 5 to 10 acres. The other question involved the new zoning district which is classified as Restrictive Rural Residential - whether it would be appropriate to allow more than one unit on a parcel ofless than 5 acres or not. And basically, if you had any questions or comments.

Shonkwiler: If someone comes in with a 4 acre parcel they can build one unit; if someone comes in with 5.1 acre parcel they can build 10 units?

Rautenstraus: No...they can build 2 units. The basic idea was to take care of lots which are between 20,000 sq.ft. and 5 acres. According to John Rupp, it is not really appropriate to place those in an Agricultural zone because that sometimes opens up agricultural uses which you don't want in a slightly more urban area. The only other zone we had was just Rural Residential which does allow for development of 20,000 sq.ft. lots.

Shonkwiler: That paragraph does not say that.

Rautenstraus: That paragraph needs to be read in conjunction with the changes of Yard and bulk changes. It could be made clearer. The RRR would be used only for parcels of 20,000 sq.ft. and 5 acres specified further for parcels over 5 acres.

Shonkwiler: I believe that is important to clarify that in the RRR zoning. Shonkwiler also asked for more information on the Office Zone, and the 3 acres, 5 to 10 acres, what are getting into here?

Rautenstraus: As Rupp says, he felt that some type of limitation might be appropriate in order to try to avoid the intensity of an office

park right next to a residential area. This is meant to be geared more for the situation. I would classify it the best I can here in town, ie, smaller Louisville Medical Center, like the kind that is up on Garfield and South Boulder Road, but would not be meant for a Neodata. The idea was to get the Neodata situation out of Administrative Office and more into Business Office due to larger scale, more acres involved, more buildings, etc.

As far as the limitation goes, it is hard to come up with an exact number. 3 acres could be too small. A larger parcel could be better if you didn't have any commercial development with it. You wouldn't want a 3½ acre parcel next to a residential development where they could not apply for Administrative Office.

Ferrera: Neodata is on 14 acres, and when BSCS came in, our one concern was we do not allow commercial development on that site, we wanted Office space. If we go with this Ordinance #838, they would not be able to come in as Office Space, due to acreage, correct?

Rautenstraus: Not necessarily...you could put limitations on their ability for commercial development, as long as it was reasonable.

Ferrera: It was our choice at that time not to have commercial on the hill, but an office.

Shonkwiler: The code does say anything over 1 acre must be a PUD. You could still be in a Business Office zone, and have to PUD with restrictions.

Ferrera: You still have to come up with reasons why the restriction is there. Now we could annex something that is Office and we don't have any problems with commercial, we don't have to come up with reasons why you can't put commercial on that site.

Shonkwiler: That would be easy enough to support by the Comp Plan, because that office was in the Comp Plan RR zone, the reason would be a designated residential area on the Comp Plan, therefore a commercial office is inappropriate, so you could have 14 acres out there but it would be Administrative Office and support it in that manner, and do it by a case-by-case basis. With this ordinance we have the flexibilty to avoid any abuse. Shonkwiler is almost in favor of the 3 acres for AO, however, it does limit flexibility.

Caranci: I agree with Rupp's comments.

Rautenstraus thanked the Commissioners for their comments.

ORDINANCE NO. 692

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LOUISVILLE MUNICIPAL CODE CLARIFYING THE ANNEXATION AND SUBDIVISION PROCEDURES OF THE CITY; AND AMENDING VARIOUS SECTIONS OF TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE, REVISING VARIOUS ZONING DEFINITIONS AND CREATING A NEW OFFICE ZONING DESIGNATION.

WHEREAS, the City Staff has reviewed the existing subdivision and zoning ordinances and determined certain modifications should be made; and,

WHEREAS, the proposed modifications have been presented to, and approved by the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 16.04.040(A) shall be repealed.

Section 2. The following section shall be added to Chapter 16.04 of Title 16 of the Louisville Municipal Code:

16.04.040(A)

Whoever divides or participates in the division of a lot, tract, or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale of building development, whether residential, industrial, office, business or other use, who desires to build a structure upon any tract of land which has not been previously platted, shall make the transaction subject to the provisions of this title and a plat therefor must be submitted to and accepted by the City according to the terms set forth in this title. The terms of this title shall also include and refer to any division of land previously subdivided or platted.

Section 3. The following sub-section shall be added to Section 16.04.050, Chapter 16.04 of Title 16 of the Louisville Municipal Code:

16.04.050(C)

C. Land in the process of annexation for which an annexation petition has been filed.

Section 4. Section 16.08.020(6), Section 16.08.020(19), Section 16.08.020(44), and Section 16.08.020(47) shall be repealed.

Section 5. The following sub-sections shall be added to Section 16.08, Title 16 of the Louisville Municipal Code:

16.08.020(6)

6. "Comprehensive Development Plan" means the comprehensive development plan for the City which has been officially adopted to provide long range development policies for the City and which includes among other things, the plan for land use, land subdivision, circulation, public facilities, the adopted comprehensive development plan map and text, and other elements to be adopted from time to time.

16.08.020(19)

19. "Improvements" means all facilities constructed or erected by subdivider within any subdivision to permit and facilitate the use of lots or blocks for a principal residential, business or industrial purpose. Improvements shall include all facilities listed in Chapter 16.20.

16.08.020(44)

44. "Street Trees" means those trees provided under section 16.20.020(H) of the Louisville Municipal Code.

Section 6. Sub-sections B, C, and G of Section 16.12.030 of the Louisville Municipal Code shall be repealed.

Section 7. The following subsections shall be added to Section 16.12.030, Title 16 of the Louisville Municipal Code:

16.12.030(B)

The agency shall have 20 days from the date they receive a copy of the plat to review and return the plat to the City Administrator's office. All comments relative to the above referenced plat shall be returned at that time.

16.12.030(C)

The preliminary plat shall be submitted to the Planning Commission and a public hearing shall be held on said plat. Notice of the time and place of the public hearing shall be sent as required by the statutes of the State of Colorado. Additionally, notice of the public hearing shall be published in a newspaper of general circulation within the City at least five days prior to such hearing.

16.12.030(G)

Within 15 days after a preliminary plat is disapproved, or approved with modifications, the subdivider may request in writing a review before the Planning Commission.

Section 8. Section 16.12.070(A) and 16.12.070(D) of the Louisville Municipal Code shall be repealed.

Section 9. The following sub-sections shall be added to Section 16.12.070 of Title 16 of the Louisville Municipal Code:

16.12.070(A)

Not more than 12 months after approval of the preliminary plat, four to thirty-six copies of the final plat as required by the City and any required supplemental material shall be presented by subdivider to the City Administrator's office. The final plat must be presented at least 21 days prior to the planning commission meeting after which said plat shall be reviewed.

16.12.070(D)

The Planning Commission shall hold a public hearing upon said final plat, giving notice as required for a preliminary plat, and shall approve, disapprove, or approve the final plat with modifications and submit the plat together with the commission's recommendation in writing to the City Council.

Section 10. Section 16.16.030(P) of the Louisville Municipal Code shall be repealed.

Section 11. The following sub-section shall be added to Section 16.16.030 of Title 16 of the Louisville Municipal Code:

16.16.030(P)

Alleys, easements and fire lanes shall be as follows:

1. Alleys, open at both ends, shall be provided in commercial and industrial areas, except that this requirement may be waived or other provisions are made and approved for service access;

2. If alleys are provided, they shall be paved;

3. Easements for utilities shall be 16 feet wide, 8 feet of which shall be on each side of common rear lot lines where said lines abutt. On perimeter rear lots, easement width shall be 10 feet or more. Side lot easements, where necessary shall be five feet in width;

4. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall

be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as may be required for necessary flood control measures.

5. Fire lanes shall be required where necessary to protect the area during the period of development and after development. An easement therefore shall be dedicated, shall be a minimum of 20 feet in width, and shall remain free of obstructions and provide access at all times.

Section 12. Section 16.16.050(D) of the Louisville Municipal Code shall be repealed.

Section 13. The following sub-section shall be added to Section 16.16.050 of Title 16 of the Louisville Municipal Code:

16.16.050(D)

The minimum lot frontage, as measured along the front lot lines shall be 50 feet, except for lots abutting a cul-de-sac in which case said lot frontage may be reduced to 35 feet.

Section 14. Chapter 16.24 of the Louisville Municipal Code shall be repealed.

Section 15. The following chapter shall be added to Title 16 of the Louisville Municipal Code:

Chapter 16.24 MODIFICATIONS

16.24.010 Intent

The City Council, upon advice of the Planning Commission, may authorize modification from these regulations in cases where, due to exceptional topographical conditions or other conditions peculiar to the site, an unnecessary hardship would be placed on the subdivider. Such modifications shall not be granted if it would be detrimental to the public good or impair the basic intent and purposes of this title. Any modification granted shall be in keeping with the intent of the comprehensive development plan of the City.

16.24.020 Planned Unit Development Modifications

Modifications to the requirements of this Title may be authorized by the City Council upon advice of the Planning Commission

in the case of a Planned Unit Development.

Section 16. The following section shall be added to Chapter 16.28, Title 16 of the Louisville Municipal Code:

16.28.040 Review of Previously Approved Plats

In the event no subdivision agreement has been executed, no construction of required improvements initiated or no building permits issued within 12 months after final approval of the subdivision plat, City Council or Planning Commission may call for a review. Upon a properly advertised public hearing, and notice given to the subdivider, approval of the subdivision plat may be revoked or the previous approval may be modified to include additional conditions.

Section 17. Section 16.32.020(B) of the Louisville Municipal Code shall be repealed.

Section 18. The following subsection shall be added to Section 16.32.020, Title 16 of the Louisville Municipal Code:

16.32.020(B)

The petition shall be accompanied by four to thirty-six copies of a map, said number to be set by the City, showing the area proposed for annexation.

Section 19. Sections 16.32.030(A) and 16.32.030(G) of the Louisville Municipal Code shall be repealed.

Section 20. The following subsections shall be added to Section 16.32.030, Title 16 of the Louisville Municipal Code:

16.32.030(A)

The comprehensive development plan of the City of Louisville will be considered in determining whether an annexation will be approved.

16.32.030(G)

All water rights which have historically served the property proposed to be annexed shall be assigned and deeded to the City. At the option of the City, cash shall be paid to the City in lieu of the dedication of the historical water rights.

Section 21. Sections 17.08.025, 17.08.060, 17.08.080, 17.08.180, 17.08.285, 17.08.375, 17.08.435, 17.08.600 of the Louisville Municipal Code are hereby repealed.

Section 22. The following sections are hereby added to Chapter 17.08, Title 17 of the Louisville Municipal Code:

17.08.025 Animal Hospital

"Animal Hospital" means a veterinary hospital where animals are brought for medical and surgical treatment to be held during the time of such treatment. All facilities for holding the animals on the premises shall be housed in a completely enclosed building and used incidental to such medical and surgical services only. This definition shall be distinguished from a "small animal clinic" where only household animals shall be treated and kept overnight during the period of their treatment.

17.08.060 Central Business District

"Central Business District" means the area bounded by South Street on the north, the Colorado & Southern Railroad tracks on the east, Elm Street on the south, and LaFarge Street on the west.

17.08.080 Commercial Amusement

"Commercial Amusement" means an enterprise whose main purpose is to provide the general public with an amusing or entertaining activity where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, arcades, ferris wheels, childrens rides, roller coasters, skating rinks, ice rinks, bowling alleys, pool parlors and similar activities.

17.08.180 Frontage

"Frontage" means that portion of a lot, parcel, tract of block abutting upon a street or other right-of-way.

17.08.285 Lots, Double Frontage

"Double Frontage Lots" means a lot which runs through a block from street to street and which has non-intersecting sides abutting on two or more streets or other right-of-ways.

17.08.375 Planned Unit Development

"Planned Unit Development" means a project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses, or industries and associates uses, planned as a single entity and therefore subject to development and regulation as one land-use unit rather than as an aggregation of individual

buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire trade; and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so that maximum long range benefits can be gained, and the unique features of the development of site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing.

17.08.403 Recreational Enterprise

"Recreational Enterprise" means a temporary or outdoor amusement which in certain cases might be appropriate in an agricultural zone and includes carnivals, expositions, driving ranges, fairs, rodeos, tent shows and similar enterprises.

17.08.435 Sign

"Sign" means any object or devise or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images. Signs do not include:

A. Flags of nations, organizations of nations, states and cities, or of fraternal, religious and civic organizations, which are not oversized and not used for commercial purpose;

B. Merchandise, pictures, or models of products or services incorporated in a window display;

C. Time and temperature devices not related to a product;

D. National, state, religious, fraternal, professional and civic symbols or crests;

E. Works of art which in no way identify a product;

F. Scoreboards located on athletic fields;

G. Signs which give public information with the purpose of identifying and locating a facility;

If for any reason it cannot be readily determined whether or not an an object is a sign, the City Administrator shall make such determination.

17.08.600 Yard, front

"Front yard" means the yard between the side lot lines and measure horizontally at right angles to the front lot line to the

principal structure.

Section 23. Section 17.12.030 is hereby repealed.

Section 24. The following sub-sections are added to Section 17.12.030 of Title 17 of the Louisville Municipal Code:

17.12.030 Use Groups

In each zoning district, any use group category not expressly permitted shall be deemed excluded. If there is a question pertaining to interpretation of any specific use as to whether it does or does not come within the following express use groups, any applicant may apply to the board of zoning adjustment for the determination of whether a specific use is expressly permitted. In the following table, uses expressly permitted are designated "yes", uses prohibited are designated "no" and uses permitted by special review are designated "R".

Use Groups	Districts								
	A	R-R R-E R-L	R-M	R-H	C-N	C-C	C-B	I	O
1. Agricultural or commercial crop or animal production.	Yes	R	R	R	No	No	No	R	No
2. Private horse stables.	Yes	Yes[1]	No	No	No	No	No	No	No
3. Public horse stables.	Yes	No	No	No	No	No	No	No	No
4. Single-family dwellings.	Yes	Yes	Yes	Yes	R	No	No	No	No
5. Multi-unit dwellings.	No	R	Yes	Yes	R	R	R	No	R
6. Boardinghouses and lodginghouses.	No	No	Yes	Yes	R	R	R	No	R
7. Mobile home parks.	No	No	R	No	No	No	No	No	No
8. Hotels and motels, including restaurants and other incidental commercial uses inside the principal building.	No	No	No	No	No	R	Yes	R	No
9. Public and private schools (Other than items 10, 11, and 12).	R	R	R	R	No	No	No	No	R
10. Family care home.	Yes	Yes	Yes	R	R	No	No	No	No
11. Child care center.	R	No	R	R	R	R	No	No	R
12. Vocational and business schools.	No	No	No	No	R	R	R	R	R
13. Hospitals.	R	No	R	R	No	R	R	No	No

1. Private horse stables are permitted only in the R-R residential rural district. They are not permitted in the R-E and R-L districts.

Use Groups	Districts								
	A	R-R R-E R-L	R-M	R-H	C-N	C-C	C-B	I	O
14. Rest, nursing and retirement homes	R	No	R	Yes	R	R	R	No	No
15. Churches, chapels, temples and synagogues.	R	R	R	R	R	R	R	No	R
16. Private recreational and social facilities, such as tennis clubs, swimming clubs and golf courses.	R	R	R	R	R	R	R	No	R
17. Campgrounds, gun clubs and shooting ranges.	R	No	No	No	No	No	No	No	No
18. City, county, state and federal uses and buildings.	R	R	R	R	R	R	R	R	R
19. Private utility uses.	R	R	R	R	R	R	R	R	R
20. Municipal sewage-treatment plants and solid waste disposal sites and facilities.	R	No	No	No	No	No	No	R	No
21. Airports.	R	No	No	No	No	No	No	R	No
22. Cemeteries.	Yes	R	No	No	No	No	No	No	No
23. Mortuaries and funeral chapels.	Yes	No	No	No	No	R	Yes	No	No
24. Personal services, including but not limited to barbershops and beauty shops, dry-cleaning outlets, self-service laundries, shoe-repair shops and similar activities.	No	No	No	R	R	Yes	Yes	R	No
25. Establishments for retailing of convenience goods, including but not limited to variety stores, supermarkets, hardware stores, sporting goods stores, shoestores and drugstores.	No	No	No	No	R	Yes	Yes	R	No
26. Establishments for the retailing of shoppers goods, including but not limited to department stores or major comparison goods stores.	No	No	No	No	R	Yes	Yes	No	No
27. Furniture and appliance repair.	No	No	No	No	R	Yes	Yes	R	No

Use Groups	Districts								
	A	R-R R-E R-L	R-M	R-H	C-N	C-C	C-B	I	O
28. Establishments for a wide variety of commercial uses, including but not limited to animal hospitals, kennels, public garages, carwashes, cleaning laundry plants, cold storage lockers, nursery stock production and sales, building material and equipment dealers and wholesaling services.	No	No	No	No	No	No	Yes	R	No
29. Medical and dental clinics, professional and business offices, and financial institutions, small animal clinics.	No	No	No	No	R	Yes	Yes	R	Yes
30. Membership clubs, lodges and fraternal organizations.	No	No	R	R	R	Yes	Yes	No	R
31. Indoor eating and drinking establishments.	No	No	No	No	R	Yes	Yes	R	R
32. Indoor commercial amusement.	No	No	No	No	R	Yes	Yes	R	No
33. Massage parlors and/or establishments.	No	No	No	No	No	No	R	No	No
34. Outdoor commercial amusement.	No	No	No	No	R	R	R	R	No
35. Sales and repair of motor vehicles, outdoor sales and repair (appliances, retail goods, eating and drinking establishments, etc.)	No	No	No	No	No	R	R	R	No
36. Automobile parking lots	R	R	Yes	Yes	R	Yes	Yes	Yes	R
37. Automobile parking garages.	No	No	No	R	No	R	Yes	Yes	No
38. Gasoline service stations.	No	No	No	No	R	R	R	R	No
39. Public garages.	No	No	No	No	No	R	R	Yes	No
40. General research facilities.	No	No	No	No	No	No	R	Yes	R
41. Salvage Yards.	R	No	No	No	No	No	No	R	No
42. Accessory buildings and uses.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Use Groups	Districts								
	A	R-R R-E R-L	R-M	R-H	C-N	C-C	C-B	I	O
43. Commercial/industrial uses, including but not limited to building contractors, equipment yards, transportation centers and services, and warehouses, small storage facilities.	No	No	No	No	No	No	R	Yes	No
44. Facilities for the manufacturing, fabrication, processing or assembly of products; provided that such facilities are completely enclosed and provided that no effects from noise, smoke, glare, vibration, fumes or other environmental factors are measurable at the property line.	No	No	No	No	No	No	No	Yes	No
45. All other facilities for the manufacturing, fabrication, processing or assembly of products; provided that such facilities are not detrimental to the public health, safety and welfare and provided that the following performance standards are met.	No	No	No	No	No	No	No	R	No
46. Oil and gas exploration and production.	R	No	No	No	No	No	No	No	No
47. Recreational Enterprise.	R	No	No	No	R	R	R	R	No

Section 25. The following footnotes shall be added to Section 17.12.040 of the Louisville Municipal Code:

Footnote 6

On cul-de-sac or curved lots the front footage may be reduced upon approval by the City, however, in no case shall the front footage be less than 35 feet.

Footnote 7

Density and minimum lot area for residential use in C-N, C-C, and C-B, shall be computed only for the area to be used for residential purposes.

Section 26. Section 17.12.010(A) of the Louisville Municipal Cide os hereby repealed.

Section 27. The following sub-section is added to section 17.12.010 of Title 17 of the Louisville Municipal Code:

17.12.010(A) Agricultural A

This district is comprised of areas which are primarily in a natural state, are utilized for the growing of crops and plants materials or where similar farming activities are practiced, or is appropriate for very low density residential use.

17.12.010(K)

"Administrative or professional office O". This district is intended for principally non-retail use of a personal service nature. It is intended to be low intensity in terms of traffic, advertising and hours of operation and shall be compatible with residential use.

Section 28. The following sub-sections are added to Section 17.12.030 of the Louisville Municipal Code:

(A) Smoke. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to smoke emission.

(B) Particulate Matter. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of particulate matter.

(C) Dust, Odor, Gas, Fumes, Glare or Vibration. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of dust, odor, gas, fumes, glare or vibration.

(D) Radiation Hazards and Electrical Disturbances. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to radiation control.

(E) Noise. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to noise.

(F) Water Pollution. No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to water pollution.

INTRODUCED, READ AND ORDERED PUBLISHED THIS 18th day of September, 1980.

Lawrence Cuccia
Mayor

ATTEST:

Patricia D. Stahl
City Clerk

ADOPTED AND APPROVED ON SECOND AND FINAL READING THIS 7 day of Oct., 1980.

Lawrence Cuccia
Mayor

ATTEST:

Patricia D. Stahl
City Clerk

Lisa Ritchie

From: Diehl, Michael E <Michael.Diehl@XCELENERGY.COM>
Sent: Tuesday, November 20, 2018 9:36 AM
To: Lisa Ritchie
Subject: RE: City of Louisville

Sorry for the delay. I have no objection to the zoning change. Thank you for the opportunity to comment.

Safety Brings You Home
HAVE A SAFE DAY
Michael E. Diehl, Manager
Siting and Land Rights
Xcel Energy l Responsible By Nature
1800 Larimer Street, Suite 400
Denver, CO 80202
(Office) 303-571-7260
(Cell) 303-810-9707
(Fax) 303-294-2088
(e-mail) michael.diehl@xcelenergy.com

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From: Lisa Ritchie [mailto:lritchie@louisvilleco.gov]
Sent: Monday, November 05, 2018 4:18 PM
To: Diehl, Michael E
Subject: RE: City of Louisville

CAUTION EXTERNAL SENDER: Stop and consider before you click links or open attachments.
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Hi Michael,

I have another property for you (this should be the last one) that I'd like your consent for rezoning from Office to Administrative Office. See attached for an image of the property at the northwest corner of South Boulder Road and Garfield Ave, parcel number 157505310004 . Please let me know if you have any questions or concerns related to this action. If none, please acknowledge your consent.

Thanks,

Lisa Ritchie, AICP
Associate Planner
City of Louisville

303-335-4596

From: Diehl, Michael E [mailto:Michael.Diehl@XCELENERGY.COM]
Sent: Friday, October 26, 2018 2:19 PM
To: Lisa Ritchie <lritchie@louisvilleco.gov>; George, Donna L <Donna.L.George@xcelenergy.com>
Subject: RE: City of Louisville

Unless you have a standard form, or need a formal signature on something, I hereby consent to the rezoning of the subject Xcel Energy/Public Service Company of Colorado electric transmission right-of-way from Office to Agriculture. Please let me know if I can be of further assistance. Thank you.

Safety Brings You Home
HAVE A SAFE DAY
Michael E. Diehl, Manager
Siting and Land Rights
Xcel Energy l Responsible By Nature
1800 Larimer Street, Suite 400
Denver, CO 80202
(Office) 303-571-7260
(Cell) 303-810-9707
(Fax) 303-294-2088
(e-mail) michael.diehl@xcelenergy.com

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From: Lisa Ritchie [mailto:lritchie@louisvilleco.gov]
Sent: Friday, October 26, 2018 1:45 PM
To: Diehl, Michael E; George, Donna L
Subject: RE: City of Louisville

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Hi Michael,

Yes, it is allowed. The property just north of this piece is zoned Agriculture and is where the power line continues. Do we need to submit anything formally, or can you consent over email? Thanks for your help!

Lisa Ritchie, AICP
Associate Planner
City of Louisville
303-335-4596

From: Diehl, Michael E [mailto:Michael.Diehl@XCELENERGY.COM]
Sent: Friday, October 26, 2018 1:38 PM
To: Lisa Ritchie <lritchie@louisvilleco.gov>; George, Donna L <Donna.L.George@xcelenergy.com>
Subject: RE: City of Louisville

Hi Lisa,
I am the responsible party. Are you asking for consent from Xcel Energy/Public Service Company of Colorado to rezone our right-of-way from Office to Agriculture? So long as Electric Transmission Lines are allowed, it doesn't matter what our right-of-way is zoned. Please advise. Thanks.

Safety Brings You Home
HAVE A SAFE DAY
Michael E. Diehl, Manager
Siting and Land Rights
Xcel Energy l Responsible By Nature
1800 Larimer Street, Suite 400
Denver, CO 80202
(Office) 303-571-7260
(Cell) 303-810-9707
(Fax) 303-294-2088
(e-mail) michael.diehl@xcelenergy.com

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From: Lisa Ritchie [mailto:lritchie@louisvilleco.gov]
Sent: Friday, October 26, 2018 1:31 PM
To: George, Donna L; Diehl, Michael E
Subject: RE: City of Louisville

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Thanks Donna!

Michael, please reach out with questions or what you need from us. For other property owners in this circumstance, we are requesting a letter consenting to the action, and we are handling all of the application coordination. Thanks,

Lisa Ritchie, AICP
Associate Planner
City of Louisville
303-335-4596

From: George, Donna L [mailto:Donna.L.George@xcelenergy.com]
Sent: Friday, October 26, 2018 1:29 PM

To: Lisa Ritchie <lritchie@louisvilleco.gov>; Diehl, Michael E <Michael.Diehl@XCELENERGY.COM>
Subject: RE: City of Louisville

Hi Mike,

Will you please help Lisa with this since it is a transmission line?

Thanks!

Donna George
Xcel Energy | Responsible By Nature
Right of Way and Permits
1123 West 3rd Avenue, Denver, CO 80223
P: 303-571-3306 | F: 303-571-3660
donna.l.george@xcelenergy.com

XCELENERGY.COM
Please consider the environment before printing this email.

From: Lisa Ritchie [mailto:lritchie@louisvilleco.gov]
Sent: Friday, October 26, 2018 11:59 AM
To: George, Donna L
Subject: City of Louisville

CAUTION EXTERNAL SENDER: Stop and consider before you click links or open attachments.
Report suspicious email using the 'Report Phishing/Spam' button in Outlook.

Hi Donna,

Before I send a referral, I wanted to understand what Xcel will look for in this particular application because you own one of the parcels. We are proposing to rezone certain areas in the City that are zoned Office to Agriculture. The parcel Xcel owns has a transmission line running though it and has a regional trail. See below for a map. The Boulder County parcel number is 157506400031.

Is it possible to get a letter of consent from Xcel for something like this? Who is the best person to work with in your organization? Thanks for your help!

Lisa Ritchie, AICP

Associate Planner
City of Louisville
lritchie@louisvilleco.gov
303-335-4596

We encourage you to visit our new online maps webpage with planning and land use information.

The Department of Planning & Building Safety is collecting feedback to improve our customer service. Please let us know how we are doing by completing this short survey!

Lisa Ritchie

From: Gedeon LaFarge <gedeon@quitsa.net>
Sent: Friday, October 26, 2018 1:24 PM
To: Lisa Ritchie
Cc: 'Toni McClain'; 'Michayla Danu'
Subject: RE: 325 South Boulder Road

Lisa,
As the manager for the LLC (72nd Colorado, LLC) that owns 325 S. Boulder Rd., I am giving my consent to the rezoning of the property from Office (O) to Administrative-Office (A-O).
Thank you, Gedeon

Gedeon LaFarge
Manager
72nd Colorado, LLC

From: Lisa Ritchie <lritchie@louisvilleco.gov>
Sent: Thursday, October 25, 2018 1:10 PM
To: gedeon@quitsa.net
Subject: 325 South Boulder Road

Gedeon,

Thanks for reaching out. We are requesting that you provide acknowledgement that you, as the property owner, consent to the rezoning of 325 South Boulder Road from Office (O) to Administrative-Office (A-O). The City will be coordinating the application. Please feel free to reach out with questions, thank you!

Lisa Ritchie, AICP
Associate Planner
City of Louisville
lritchie@louisvilleco.gov
303-335-4596

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Lisa Ritchie

From: Mike Baum <mikebaum1@gmail.com>
Sent: Tuesday, December 4, 2018 7:11 PM
To: Lisa Ritchie
Subject: Re: City of Louisville rezone

Hi Lisa,
Myself and the other partners are OK with your re-zoning request.

So you can take this as written authorization that as the property owners, we have no objections to this action and consent to the application.

Regards

Mike

On Mon, Dec 3, 2018 at 5:44 PM Lisa Ritchie <lritchie@louisvilleco.gov> wrote:

> Hi Mike, Any update from the email below? Thanks!
>
> ***Lisa Ritchie, AICP***
>
> *Senior Planner*
>
> *City of Louisville*
>
> *303-335-4596*
>
> ---
>
> **From:** Lisa Ritchie
> **Sent:** Friday, October 26, 2018 11:58 AM
> **To:** 'mikebaum1@gmail.com' <mikebaum1@gmail.com>
> **Subject:** City of Louisville rezone
>
> Hi Mike,
>
> Thanks for calling to learn more about the rezoning of your property. The City intends to rezone 317 South Boulder Road, along with a number of other properties in the area, to the Administrative-Office zone district from the repealed Office zone district. This action will not invalidate the previous PUD approvals for the site, but rather it will establish the zoning for the property since the repeal of the Office zoning in 1984. We believe that the Administrative-Office zone district is the most similar, and consistent with how you are using the property currently. Please see below for more information.
>
> - ORD 1980-692 - See page 8 to see the allowed uses in the Office zone district.

- ORD 1984-838 – The ordinance that repealed the Office zone and established the A-O and B-O zone districts

- Current code - https://library.municode.com/co/louisville/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.12DIRE_S17.12.030USGR

We'd like to receive written authorization from you, as the property owner, that you have no objections to this action and consent to the application. We will handle the application itself. We intend to take this to Planning Commission on December 13, and would like to have this consent in place by the end of November. Please reach out with any other questions or concerns you have, thanks,

Lisa Ritchie, AICP

Associate Planner

City of Louisville

lritchie@louisvilleco.gov

303-335-4596

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The Department of Planning & Building Safety is collecting feedback to improve our customer service.

Please let us know how we are doing by completing this short survey!

Lisa Ritchie

From: Michayla Danu <MDanu@coloradogroup.com>
Sent: Wednesday, December 12, 2018 9:48 AM
To: Lisa Ritchie
Cc: Toni McClain
Subject: Rezoning 335 South Boulder Road

Good morning Lisa,

Johanna and Jeff Beeman, as the managing partners of Running Rabbits Properties II LLC, which owns 335 S. Boulder Rd, have requested that we as the property management convey their consent to the rezoning of the property from Office (O) to Administrative-Office (A-O).

Thank you

Michayla Danu | Assistant Property Manager
The Colorado Group, Inc. | 3434 47th Street, Suite 220 | Boulder, CO 80301
Office (303) 499-3400 | Direct (303) 339-5038 | Fax (303) 449-8250 | mdanu@coloradogroup.com

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**
MEREDYTH 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

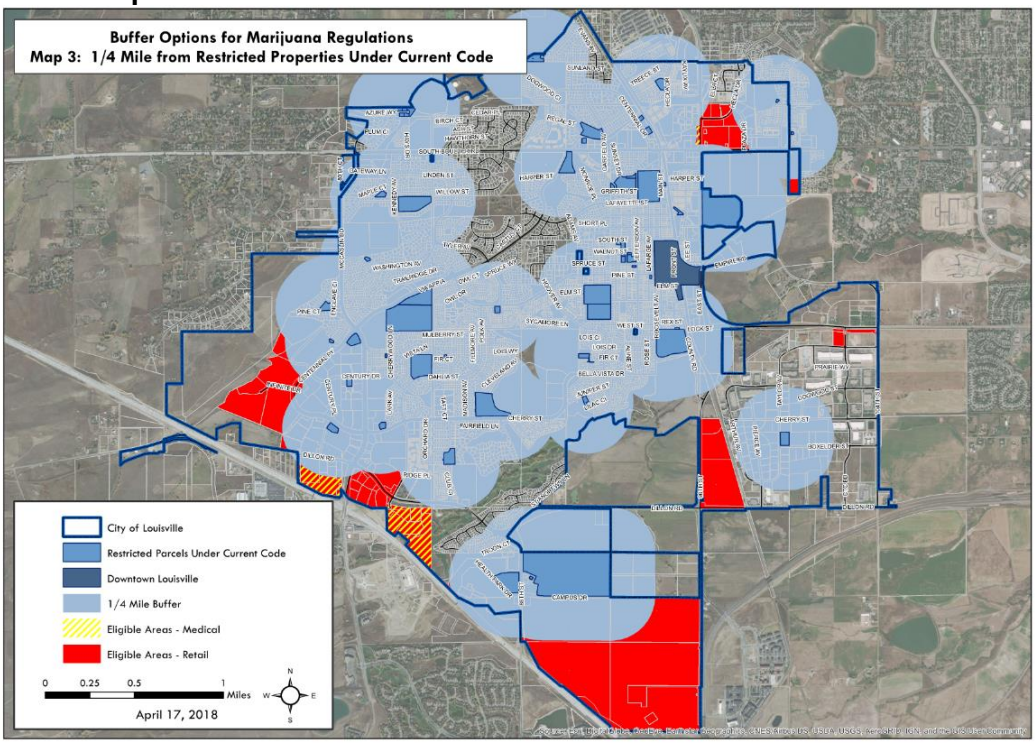
The City's marijuana ordinances state that by accepting a license, the licensee releases the City from claims resulting from arrests or prosecution for a violation of federal or state law and requires licensees to indemnify, defend and hold the City harmless for claims arising out of the operation of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

Comparison of Current Marijuana and Liquor Regulations

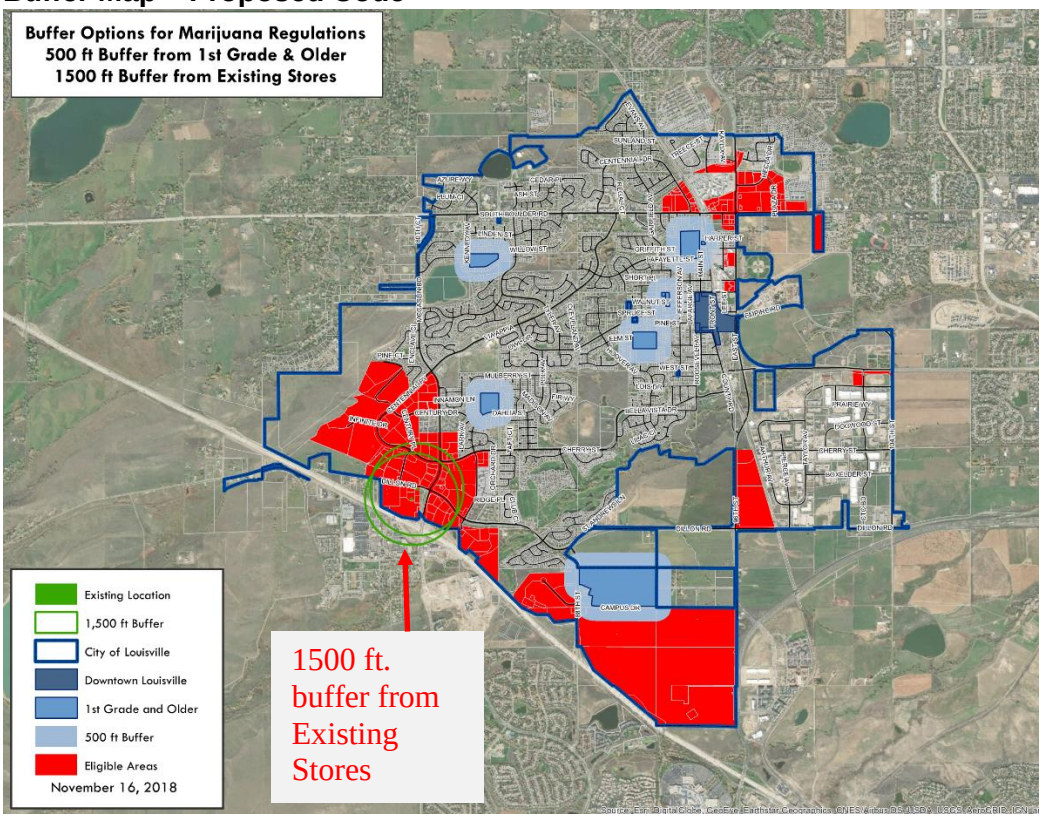
	Marijuana Regs	Liquor Regs
Land Use and Other Regulations	Must be 1,320 feet from any daycare or school. This is set by municipality.	Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.
	New stores may not be within 1,320 feet of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

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 Map – Proposed Code



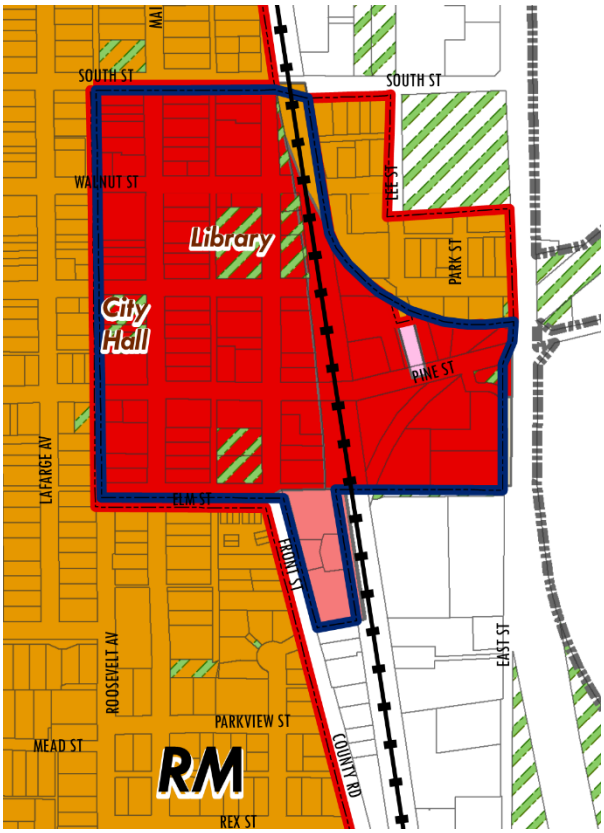
The following table compares the City's current marijuana regulations to other local jurisdictions. Of the communities that allow retail and medical marijuana stores, Boulder, Boulder County and Lafayette have a buffer between 500 and 1,000 feet. Lafayette has a limit on the total number of retail stores 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

	Louisville	Boulder	Boulder County	Lafayette	Broomfield	Superior
Retail Sales	Allow	Allow	Allow	Allow	COMPLETE BAN	COMPLETE BAN
Medical Sales	Allow	Allow	Allow	Allow		
Retail Product Manufacturing	Not Allow	Allow	Allow	Allow		
Medical Product Manufacturing	Allow	Allow	Allow	Allow		
Retail Marijuana Testing Facility	Allow	Allow	Allow	Allow		
Medical Marijuana Testing Facility	Not Allow	Allow	Allow	Allow		
Retail Cultivation	Not Allow	Allow	Allow	Allow		
Medical Cultivation	Not Allow	Allow	Allow	Allow		
Marijuana Research & Development	Not Allow	Allow	Allow	Allow		
Distance Requirement	1,320 Feet	1,000 Feet	1,000 feet	500 – 1,000 feet		
Limit on # of Retail Stores	4	None	None	3		
Square Footage Restrictions	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.	Dispensaries must be in personal services zones and may not be larger than 3,000 square feet. Grows must be in light industrial zones and may not be larger than 15,000 sq feet. MIPs must be in manufacturing or light industrial and may not be larger than 15,000 sq feet.	None	None		

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

City	How does the city regulate odor?
Fort Collins	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".
Breckenridge	Requires ventilation system to eliminate odors as detected with a normal sense of smell at the exterior of the premises (building).
Denver	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.
Aurora	Requires ventilation system to eliminate odors at the property line.
Boulder	Requires ventilation to eliminate odors as detected with a normal sense of smell at the exterior of the premises (building).
Lafayette	Requires ventilation system to eliminate odors as detected with a normal sense of smell at the exterior of the establishment.

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 oversite 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:

INFORMATION FROM OTHER JURISDICTIONS

	Boulder	Boulder County	Lafayette	Commerce City	Longmont Superior Broomfield
Staffing	Added additional licensing specialist	No staff added	Licensing, background investigations, inspections, patrolling, etc., have been absorbed by existing staff.	Added part-time police investigator to complete background investigations.	BAN CULTIVATION
Complaints	Odor is most frequent community compliant. Have 7 areas with active odor investigations and required mitigation.	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.	One odor violation. The licensee installed new ventilation equipment to mitigate the problem.	Minor issues with odor at production site, cultivations just coming on line so don't have information on those.	
Security	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.	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.	None.	Minor issues with break ins for production sites	
Size Limit	15,000 Sq. Ft.	None	20,000 Sq. Ft.	None	
Number of Cultivation Licenses	53	30	6	6	

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).

Municipality/locality	Cultivation	Excise Tax	Excise Tax amount
Boulder County	Y	N	-
Boulder	Y	Y	5%
Lafayette	Y	Y	5%
Longmont	N	N	-
Lyons	Y	Y	10%
Nederland	Y	N	-

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 oversite 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
8. December 13, 2018 Planning Commission Draft 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

ORDINANCE NO. 1769
SERIES 2019

AN ORDINANCE AMENDING TITLES 5 AND 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES

WHEREAS, the City Council previously adopted licensing standards and regulations governing the time, place, manner, and number of medical and retail marijuana businesses, which such standards and regulations are set forth in Chapters 5.10 and 5.11 and Title 17 of the Louisville Municipal Code; and

WHEREAS, the City Council has determined that certain amendments to said licensing standards and regulations should be adopted, including allowing medical marijuana testing facilities, retail marijuana product manufacturing facilities, optional premises cultivation operations and retail marijuana cultivation facilities to operate in the City, changing the distance restrictions and size limitations applicable to medical and retail marijuana businesses and eliminating the cap on the number of retail marijuana stores operating within the City; and

WHEREAS, House Bill 18-1023, which was signed into law on March 22, 2018, relocated the Colorado Medical Marijuana and Retail Marijuana Codes from Title 12 of the Colorado Revised Statutes to Title 44 and the references to such statutes in the Louisville Municipal Code need to be amended accordingly; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has provided its recommendation to the City Council regarding the amendments to Title 17 of the Louisville Municipal Code concerning the matters addressed in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 5.10 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.3 (e.g. C.R.S. § 12-43.3-404) and replacing all such references with "Colorado Medical Marijuana Code."

Section 2. The following definitions in Section 5.10.020 of the Louisville Municipal Code are hereby added or amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.020. Definitions.

Colorado Medical Marijuana Code means Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;

2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or

3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer,~~ or an ongoing nuisance condition emanating from or caused by the medical marijuana business ~~center or medical marijuana-infused products manufacturer.~~

Medical marijuana business shall mean a medical marijuana center, medical marijuana-infused products manufacturer, a medical marijuana testing facility or an optional premises cultivation operation. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.~~

Medical marijuana testing facility means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Optional premises means the premises specified in an application for a medical marijuana center license or medical

marijuana-infused products manufacturer license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

Optional premises cultivation operation means a business as described in the Colorado Medical Marijuana Code.

Premises means the legal parcel of property upon which a medical marijuana business. ~~center or medical marijuana-infused product manufacturer is located~~.

Section 3. Section 5.10.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.030. Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A medical marijuana center license. A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-402~~ to registered patients or primary caregivers, but is not a primary caregiver.

2. A medical marijuana-infused products manufacturing license. A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-404~~.

3. A medical marijuana testing facility license. A medical marijuana testing facility license may be issued to a person who performs testing and research on medical marijuana and medical marijuana-infused products. The facility may develop and test medical marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Medical Marijuana Code and any related rules and regulations.

4. An optional premises cultivation license. An optional premises cultivation license may be issued to a medical marijuana center or a medical marijuana-infused products manufacturer who grows and cultivates medical marijuana at an additional Colorado licensed premises contiguous or not contiguous with the licensed premises of the person's medical marijuana center license or medical marijuana-infused products manufacturing license.

Section 4. Section 5.10.060.B and C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.060. - Application and fee.

B. The applicant shall also provide the following information on a form approved by, or acceptable to, the city, which information shall be required for the applicant, the proposed manager and employees of the medical marijuana business, and all persons having any financial interest in the medical marijuana business that is the subject of the application:

1. Name, address, date of birth;

2. A complete set of fingerprints;

3. An acknowledgement and consent that the city will conduct a background investigation, including a criminal history check, and that the city will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of or relating to deposits, withdrawals, balances and loans;

4. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;

5. The name and complete address of the proposed medical marijuana business;

6. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of

such property authorizing the use of the property for a medical marijuana business ~~center or medical marijuana-infused products manufacturer~~;

7. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;

8. Evidence of a valid sales tax license for the business;

9. If the medical marijuana center will be providing medical marijuana in edible form, evidence of any food establishment license or permit that may be required by the state;

10. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the medical marijuana business, loading zones and all areas in which medical marijuana will be stored, processed or dispensed;

11. A comprehensive business plan for the medical marijuana business which shall contain, without limitation, the following:

a. A security plan meeting the requirements of section 5.10.160 of this chapter;

b. A description of all products to be sold;

c. A signage plan that is in compliance with all applicable requirements of section 5.10.150 of this chapter, this Code and the commercial development design standards and guidelines; and d. A plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations~~; and~~

12. A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For optional premises cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving

the premises. For medical marijuana-infused product manufacturers and medical marijuana testing facilities, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

13. A description of the processes used to extract or distill marijuana from its source and the process used to incorporate marijuana into all products produced, including verifying compliance of all processes regulated by a federal, state, or local government that would have authority over the business if it was not a medical marijuana business.

14. For a medical marijuana-infused product manufacturer or a medical marijuana testing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or testing any marijuana, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The city shall require the manufacturer or testing facility to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons, and comply with all applicable laws.

15. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer operation~~, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

Section 5. Sections 5.10.070 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.070. - Location criteria; size restrictions.

A. No medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first

licensed by the city, be located within 1,500~~1,320~~ feet of another medical marijuana center or a retail marijuana store unless they share premises in accordance with section 5.11.080.F.~~ or medical marijuana-infused product manufacturer~~.

B. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located:

1. Within 500~~1,320~~ feet of: 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 child care facility~~;

2. Upon any city property;

3. In a dwelling unit or any residentially zoned districts.~~; or~~

4. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts~~; or~~.~~

5. Within Downtown Louisville as defined by section 17.08.113 of this Code.

C. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000~~1,800~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000~~1,800~~ square feet of leasable floor space.

D. No medical marijuana businesses ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A~~,~~ and B~~ and C~~ of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes

stated in subsections A~~,~~ and B ~~and C~~ of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

Section 6. Section 5.10.080.E of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.080. - Persons prohibited as licensees.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana business ~~center~~ license ~~or medical marijuana-infused product manufacturer license~~, the applicant shall submit …. [Remainder of section to remain the same]

Section 7. Section 5.10.090.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.090. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

Section 8. Section 5.10.110.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.110. - Use and display of license.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~.

Section 9. Section 5.10.150 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana business ~~center or medical marijuana-infused products manufacturer~~ shall comply with all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

Section 10. The second paragraph of Section 5.10.160 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.160. - Security requirements.

Security measures at all medical marijuana businesses ~~centers and medical marijuana-infused product manufacturers~~ shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-101 et seq~~. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Section 11. Section 5.10.190 ("Sale of edible products") and Section 5.10.200 ("Labeling") of the Louisville Municipal Code are hereby repealed in their entirety and replaced with the following new Section 5.10.190 to read as follows:

Section 5.10.190 - Requirements for public health and labeling.

A. The production of any medical marijuana-infused product shall be at a medical marijuana-infused product manufacturing facility that meets all requirements of all applicable state and local health regulations related to the production, preparation, labeling, and sale of infused products.

B. All medical marijuana and medical marijuana-infused products sold or otherwise distributed by the licensee shall be

packaged and labeled in a manner consistent with the Colorado Medical Marijuana Code and any related rules and regulations, as from time to time amended.

C. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging

Section 12. Section 5.10.170 of the Louisville Municipal Code entitled "Required notices" is hereby repealed in its entirety.

Section 13. Section 5.10.180 of the Louisville Municipal Code (entitled "Cultivation and growing by licensees") is hereby repealed in its entirety.

Section 14. Section 5.10.210 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is prohibited.

Section 15. Section 5.10.220.A.8 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.220. Prohibited acts.

A. It shall be unlawful for any licensee to:

8. Cultivate or permit the cultivation of medical marijuana ~~on the licensed premises~~ outside of a locked enclosed space within a building.

Section 16. Section 5.10.230 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.230. - Visibility of activities; control of emissions.

A. All activities of medical marijuana businesses ~~centers and medical marijuana infused product manufacturers~~, including, without limitation, processing, displaying, selling, cultivation and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana business ~~center or infused product manufacturer~~ so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business ~~center or infused product manufacturer~~, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 17. Chapter 5.10 is hereby amended by the addition of a new Section 5.10.232 of the Louisville Municipal Code to read as follows:

Sec. 5.10.232. - Marijuana Odor Emissions.

A. No medical marijuana business shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

B. Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity able to detect the odor of marijuana from outside the medical marijuana business.

C. A marijuana odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if marijuana odor is detectable at the property line of the premises.

Section 18. Chapter 5.10 of the Louisville Municipal Code is hereby amended by the addition of a new Section 15.10.235 to read as follows:

Sec. 5.10.235. - Additional requirements for testing and manufacturing of medical marijuana and infused products.

A. No medical marijuana business may use metals, butane, propane, or other solvent or flammable product, or produce

flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

B. The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

Section 19. Section 5.10.320.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.320. - Other laws remain applicable.

C. If the state or federal government prohibits the activities ~~sale or other distribution~~ of ~~marijuana through~~ of any medical marijuana business ~~centers or medical marijuana-infused products manufacturers~~, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Section 20. Chapter 5.11 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.4 (e.g. C.R.S. § 12-43.4-306) and replacing all such references with "Colorado Retail Marijuana Code."

Section 21. The following definitions in Section 5.11.020 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.020. Definitions.

Colorado Retail Marijuana Code means ~~Article 43.4 of Title 12~~ Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

~~*Public playground* means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.~~

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 22. Section 5.11.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.030. Classes ~~and number~~ of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-402~~ and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana and industrial hemp. The facility may develop and test retail marijuana products and industrial hemp, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-405~~ and any related rules and regulations.

3. A retail marijuana products manufacturing license. A retail marijuana products manufacturing license may be issued to a person who manufactures retail marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code and any related rules and regulations.

4. A retail marijuana cultivation facility license. A retail marijuana cultivation facility license may be issued to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, retail marijuana products manufacturing licensees, or other retail marijuana cultivation facilities.

~~B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.~~

Section 23. Section 5.11.070.B of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.070. - Local license procedure.

B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:

1. Name, address, date of birth;

2. A complete set of fingerprints;

3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;

4. The name and complete address of the proposed retail marijuana establishment;

5. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;

6. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;

7. Evidence of a valid sales tax license for the business;

8. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entryways and exits to the retail marijuana establishment, loading

zones and all areas in which retail marijuana or retail marijuana products will be stored, processed or dispensed;

9. A comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:

a. A security plan meeting the requirements of section 5.11.170;

b. A description of all products to be sold;

c. A signage plan that is in compliance with all applicable requirements of section 5.11.160, this Code and the applicable design standards and guidelines; and

10. A plan for ventilation of the retail marijuana establishment that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For retail marijuana cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For retail marijuana products manufacturers and retail marijuana testing facilities, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

11. A description of the processes used to extract or distill marijuana from its source and the process used to incorporate marijuana into all products produced, including verifying compliance of all processes regulated by a federal, state, or local government that would have authority over the business if it was not a retail marijuana establishment.

12. For a retail marijuana products manufacturer or a retail marijuana testing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or testing any marijuana, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The city shall require the manufacturer or testing facility to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons, and comply with all applicable laws.

13. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

Section 24. Section 5.11.080 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.080. - Location criteria; co-location.

A No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

B.~~A.~~ No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 500 ~~1,320~~ feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. Upon any city property; or

2. In a dwelling unit or any residentially zoned districts; or

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in Title 17 of this Code.

~~B.~~ C.No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana center ~~business~~ and retail marijuana store ~~establishment~~ sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

~~C.~~D. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

~~D.~~ E. The distances described in subsections A and B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A and B above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

~~E.~~ F. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. A medical marijuana-infused products manufacturer and a retail marijuana products manufacturing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the

retail and medical marijuana-related inventory.

4. A medical marijuana testing facility and a retail marijuana testing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

5. An optional premises cultivation facility and retail marijuana cultivation facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

~~3~~.6. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

Section 25. Section 5.11.180 of the Louisville Municipal Code (entitled "Cultivation, growing and manufacturing") is hereby repealed in its entirety.

Section 26. Section 5.11.190 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Section 5.11.190 - Requirements for Public Health and Labeling.

A. The production of any retail marijuana product shall be at a retail marijuana product manufacturing facility that meets all requirements of all applicable state and local health regulations related to the production, preparation, labeling, and sale of marijuana products.

B. All marijuana and retail marijuana products sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code and any related rules and regulations, as from time to time amended.

C. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging

Section 27. Section 5.11.210.A of the Louisville Municipal Code is hereby amended by the addition of a new subsection 10 to read as follows (words to be

added are underlined):

Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:

10. Cultivate or permit the cultivation of retail marijuana outside of a locked enclosed space within a building.

Section 28. Section 5.11.220.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.220. - Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing, displaying, selling, cultivation and storage, shall be conducted indoors.

Section 29. Chapter 5.11 is hereby amended by the addition of a new Section 5.11.222 of the Louisville Municipal Code to read as follows:

Sec. 5.11.222. - Marijuana Odor Emissions.

A. No retail marijuana establishment shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

B. Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity able to detect the odor of marijuana from outside the retail marijuana establishment.

C. A marijuana odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if marijuana odor is detectable at the property line of the premises.

Section 30. Chapter 5.11 of the Louisville Municipal Code is hereby amended by the addition of a new Section 15.11.225 to read as follows:

Sec. 5.11.235. – Additional requirements for testing and manufacturing of retail marijuana and infused products.

A. No retail marijuana establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

B. The city shall require the establishment to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

Section 31. Section 9.76.030.B of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 9.76.030. - Public consumption of marijuana prohibited.

B. It shall be unlawful for any person to consume marijuana on the premises of a medical marijuana business ~~center, medical marijuana-infused products manufacturing facility, retail marijuana store~~ or retail marijuana establishment ~~products manufacturing facility~~, as defined in sections 5.10.020 and 5.11.020 of this Code, respectively.

Section 32. Section 17.08.321 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.321. – Medical marijuana.

A.1. Medical marijuana business. Medical marijuana business means a medical marijuana center, medical marijuana-infused products manufacturer, a medical marijuana testing facility or an optional premises cultivation operation. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution~~.

2. Medical marijuana center. Medical marijuana center means a person licensed pursuant to this code to operate a business

as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-402~~ and Chapter 5.10 of this Code that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

3. Medical marijuana-infused products manufacturer. Medical marijuana-infused products manufacturer means a person licensed pursuant to this code to operate a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-404~~ and Chapter 5.10 of this Code.

4. *Medical marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Section 33. Section 17.08.356.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.356. - Optional premises.

A. 1. *Optional premises* means the premises specified in an application for a medical marijuana center license or medical marijuana-infused products manufacturer license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

2. Optional premises cultivation operation. Optional premises cultivation operation means a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-403~~.

Section 34. The following definitions in Section 17.08.406 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.406. - Retail marijuana.

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility, a retail marijuana testing facility or a retail marijuana cultivation facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 35. Section 17.12.030 of the Louisville Municipal Code is hereby amended by revising the following use groups (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.12.030. Use groups.

		Districts																	
Use Groups		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-RR-ER-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I	PC ZD	MUR	OS
29a	Medical Marijuana Center*****	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	Yes	No	~~No~~	No	No
29b	Medical Marijuana -infused products manufacturer*****	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	~~No~~ Yes	~~No~~	No	No
29c	Medical Marijuana Testing Facility*****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No
~~29c~~	~~Optional premises~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~
29d	Optional premises cultivation operation*****	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~	No	No
52a	Retail Marijuana Store*****	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	No		No	No
52b	Retail Marijuana Cultivation Facility*****	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~	No	No
52c	Retail Marijuana Products Manufacturing Facility *****	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~ Yes	~~No~~	No	No
52d	Retail Marijuana Testing Facility *****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No

***** No retail marijuana establishment or medical marijuana business ~~store or retail marijuana testing facility~~ shall be located, permitted or licensed to operate in Downtown Louisville as defined by section 17.08.113 of this Code.

Section 36. Section 17.16.040 of the Louisville Municipal Code is hereby

amended by the addition of new use groups to read as follows:

Sec. 17.16.040. - Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; medical marijuana businesses; ~~centers; medical marijuana-infused products manufacturers;~~ medical marijuana optional premises cultivation operations; retail marijuana establishments; retail marijuana cultivation facilities; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 37. Section 17.16.235 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.16.235. - Medical marijuana business.

A. Except for medical marijuana businesses ~~center and medical marijuana-infused products manufacturer uses~~ in locations permitted under title 17 ~~sections 17.12.030~~ and section 5.10.070 of this Code and licensed pursuant to chapter 5.10 of this Code, and for those activities exempt from licensing under section 5.10.050.B of this Code, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any medical marijuana business.

B. No medical marijuana center shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another medical marijuana center or retail marijuana store unless they share premises in accordance with section 5.11.080.F of this Code.

C~~B.~~ No medical marijuana establishment ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is

established and first licensed by the city, be located:

~~1. Within 1,320 feet of another medical marijuana center or medical marijuana-infused product manufacturer.~~

~~2.~~ 1. Within 500 ~~1,320~~ feet of: 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 child care facility~~;

~~3.~~ 2. Upon any city property;

~~4~~. 3. In a dwelling unit or any residentially zoned districts; ~~or~~

4. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

5. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts~~; or~~.~~

~~C.~~ D. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~1,800~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~1,800~~ square feet of leasable floor space.

~~D.~~ E. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections B and C of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections B and C of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

F. Medical marijuana businesses shall comply with all the operational requirements in Chapter 5.10, including but not limited to those related to emissions, odor control, ventilation and processing of marijuana.

Section 38. Section 17.16.237 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.16.237. - Retail marijuana establishments.

A. Except for retail marijuana establishments~~ store and retail marijuana testing facility uses~~ in locations permitted under title 17 ~~sections 17.12.030, 17.14.050, 17.72.090 and~~ section 5.11.080 and licensed pursuant to chapter 5.11, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any retail marijuana establishments.

B. No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

C~~B~~. No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall, at the time it is established and first licensed by the city, be located, within 500 ~~1,320~~ feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment ~~store or retail marijuana testing facility~~ shall be located, permitted, or licensed to operate:

1. Upon any city property;

2. In a dwelling unit or any residentially zoned districts;

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or

other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in this Title 17.

D~~C.~~ No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

E~~D.~~ No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

F~~E.~~ The distances described in subsection B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment ~~store or retail marijuana testing facility~~ is located.

G. Retail marijuana establishments shall comply with all the operational requirements in Chapter 5.11, including but not limited to those related to emissions, odor control, ventilation and processing of marijuana.

Section 39. The following use groups in Section 17.14.050 of the Louisville Municipal Code are hereby amended to read as follows (words to be added are underlined):

Principal Uses	**CC**	**MU-R**
Commercial Use Group		
Retail Marijuana Store and Medical Marijuana Center	Yes – Except prohibited within Downtown Louisville, as defined by section 17.08.113 of this Code	No
Retail Marijuana Cultivation Facility and Optional Premises Cultivation Facility	No	No
Retail Marijuana Products Manufacturing Facility	No	No

and Medical Marijuana-Infused Products Manufacturing		
Retail Marijuana Testing Facility and Medical Marijuana Testing Facility	No	No

Section 40. Section 17.72.090.B.21 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.72.090. - Commercial and office.

B. *Uses permitted.* The following commercial and noncommercial uses may be permitted within any planning area designated "commercial" on the adopted planned community development general plan:

21. Retail marijuana stores, ~~and~~ retail marijuana testing facilities, medical marijuana centers and medical marijuana testing facilities, except the foregoing uses are not allowed in any mixed use lot that includes a residential use.

Section 41. Section 17.72.100 of the Louisville Municipal Code is hereby amended by the addition of a new subsection E to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.72.100. – Industrial uses permitted.

The following industrial and nonindustrial uses may be permitted within any planning area designated "industrial" on the adopted planned community development general plan:

D. Retail marijuana products manufacturing facilities, retail marijuana testing facilities, retail marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, medical marijuana testing facilities and optional premises cultivation operation, except the foregoing uses are not allowed in any mixed use lot that includes a residential use.

Section 42. The 1,500 foot distance requirement between retail marijuana stores and medical marijuana centers set forth in Sections 5.10.070.A, 5.11.080.A, 17.16.235.B and 17.16.237.B of the Louisville Municipal Code shall not apply to

existing retail marijuana stores or existing medical marijuana centers and shall not apply when an existing retail marijuana stores or existing medical marijuana centers transfers ownership pursuant to applicable law. For the purposes of this ordinance, the term "existing medical marijuana center" and "existing retail marijuana store" means any medical marijuana center or retail marijuana store that prior to the effective date of this ordinance has been issued the applicable licenses by the State and Local Licensing Authorities and has been lawfully operating in the City.

Section 43. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that anyone part be declared invalid.

Section 44. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 45. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 8th day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

_____
Light Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 5th day of February, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

COUNCIL COMMUNICATION

TO: MAYOR AND CITY COUNCIL

FROM: MALCOLM FLEMING, CITY MANAGER

DATE: MARCH 15, 2011

SUBJECT: ORDINANCE NO. 1590, SERIES 2011 – AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR MEDICAL MARIJUANA BUSINESSES – 2ND Reading – Public Hearing (advertised *Daily Camera* 03/06/2011)

ORDINANCE NO. 1591, SERIES 2011 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING MEDICAL MARIJUANA BUSINESSES – 2nd Reading – Public Hearing (advertised *Daily Camera* 03/06/2011)

ORIGINATING DEPARTMENT: PLANNING AND BUILDING SAFETY

SUMMARY:
Amendment 20 to the Colorado Constitution was approved by Colorado voters in 2000. The passage of the Amendment created legal protections for the "medical use of marijuana for persons suffering from debilitating medical conditions." Colo. Const. Art. XVIII, § 14. Amendment 20 also created an exception to the state's criminal laws for any "patient" or "primary caregiver" in lawful possession of a registry identification card to engage or assist in the medical use of marijuana. *Id.* at § 14(2)(b). The law also permits physicians to authorize medical marijuana use for patients who have been diagnosed with debilitating medical conditions. *Id.* at § 14(2)(c). A patient is prohibited, however, from engaging in the medical use of marijuana in a way that endangers the health or well-being of any person or in the plain view of, or in a place open to, the general public. *Id.* at § 14(5)(a). The State did not establish complementary guidelines to regulate the medical marijuana industry until July 2010.

BACKGROUND
In July 2009, the City granted business license applications for two (2) medical marijuana dispensaries. At the time, neither the state nor the LMC provided guidance on regulating this new industry, and staff concluded that this type of activity was a permitted principal use at the proposed locations.

The City classified the proposed uses as "medical clinics" and permitted them to locate in the Colony Square Shops, near McCaslin Boulevard and US 36. Colony Square is currently zoned Commercial Business (C-B). The C-B District is defined as a district comprised of areas to provide for a full range of retail sales and services including opportunities for a complete variety

of comparative shoppers' goods. The C-B District allows the widest variety of Commercial/Retail land uses. "Medical clinics" are a use by right in the C-B zone district.

In October 2009, the City adopted Ordinance #1557, Series 2009 which amended Title 17 of the LMC to add a definition of "medical marijuana dispensary" in Section 17.08.321 and to prohibit medical marijuana dispensaries as home occupations in Section 17.16.040.

The City Council approved Ordinance #1561, Series 2009, Ordinance #1574, Series 2010, and Ordinance #1589, Series 2011, establishing and subsequently extending a temporary moratorium on all medical marijuana businesses in the City of Louisville until April 30, 2011. The moratorium and its extension were established to allow time for the City and State to develop more comprehensive regulations for the medical marijuana industry.

State Guidelines
House Bill (HB) 10-1284, concerning the regulation of medical marijuana, was signed into law by the Governor in July 2010 and provides guidance on local governments' ability to regulate such businesses. HB 10-1284 outlines multiple options for local municipalities from the outright banning of medical marijuana businesses to establishing detailed regulation and licensing requirements for medical marijuana businesses.

Louisville City Council Direction
On November 16, 2010, the Louisville City Council directed staff to prepare recommended medical marijuana business licensing standards and location requirements beyond those in HB 10-1284, including provisions concerning such things as additional or different distance restrictions, restrictions on the size of operation, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, standards that business owners and employees must satisfy, or other measures.

Staff Action
City staff studied model municipal ordinances from throughout the Front Range. Using this information as a reference, staff prepared for the Local Licensing Authority's, the Planning Commission's and City Council's consideration two ordinances that would amend Titles 5 and 17 of the LMC regulating medical marijuana businesses.

The uniqueness and newness of this industry sets it apart from other licensed business models. The intent of the proposed zoning, licensing and operating requirements for medical marijuana businesses is to protect the public health, safety, and community welfare in a way that maintains the protections afforded to patients and primary caregivers through Amendment 20.

In summary, Amendments to Title 5: (1) establish comprehensive licensing standards; (2) set location requirements and requirements governing operations; and (3) address the cultivation of marijuana. Amendments to Title 17 define medical marijuana businesses consistent with HB 10-1284 and specify the permitted and non-permitted uses associated with medical

marijuana businesses. The existing moratorium is scheduled to expire on April 30, 2011. The new regulatory ordinances are intended to take effect prior to the expiration of the moratorium. The detailed provisions of each ordinance are outlined below.

AMENDMENTS TO TITLE 5 – BUSINESS LICENSES AND REGULATIONS

Ordinance # 1590, Series 2011 would amend Title 5 of the LMC to: (1) establish a comprehensive licensing ordinance for all medical marijuana centers and infused products manufacturers; (2) set location requirements for medical marijuana businesses and requirements governing the operation of these businesses; and (3) address the cultivation of marijuana by patients and primary caregivers who serve no more than five patients (unless the primary caregiver has been authorized by the state health agency to serve additional patients) and do not constitute a medical marijuana center. The draft ordinance is attached to the end of this Staff Report. The City of Fort Collins Medical Marijuana Ordinance was the primary template for the recommended ordinance.

Key differences between this ordinance and the City of Fort Collins include:

1. Cultivation of Medical Marijuana is prohibited in the City of Louisville.
2. Louisville's Local Licensing Authority (Authority), not the City Manager, will issue (and suspend and revoke) medical marijuana business licenses.
3. Business location requirements are unique to Louisville.

Types of Licenses and Licensing Procedures

The proposed provisions would allow two types of licenses:

1. A **medical marijuana center (MMC) license** shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of the City's ordinance and C.R.S. § 12-43.3-402 to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

2. A **medical marijuana-infused products manufacturing license** may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of the City's ordinance and C.R.S. § 12-43.3-404.

The ordinance designates the Authority as the licensing authority for the City. It will have the power to review and act on applications for new licenses and renewals and to consider revocation and suspension of licenses. The Authority is given the power to adopt rules of procedure related to these activities.

While a number of the activities for licensing will be similar to those already conducted by the Authority for alcohol licensing—such as conducting a public hearing on new applications and reviewing background checks, premises information and operations plans—some procedures and review areas are new and unique. In particular, unlike applications for new liquor licenses, the Authority's decision on whether or not to issue a medical marijuana business license will

not include an inquiry into the "reasonable requirements of the neighborhood" or the "desires of the adult inhabitants." However, the Authority's decision would be based on other criteria set forth in the ordinance, some of which are familiar to the liquor licensing process, such as whether the proposed business meets defined separation requirements and whether the applicant, the managers and employees of the business, and persons holding a financial interest in the business have criminal histories indicating that they are not of good moral character. The Authority also may deny an application for "good cause," which is defined in the ordinance.

City staff will coordinate with the Authority in developing rules and procedures for implementing the licensing requirements such as rules for conducting show cause hearings on the revocation of a license.

Fees
An extensive licensing process is proposed as an integral element of the regulations. Other requirements include payment of an application fee and an annual license fee. The fees are defined in the ordinance and are intended to cover costs associated with the staff and zoning review, mapping required to determine if separations are met, application coordination, and routing to other departments. The initial nonrefundable application fee will be **Three Thousand Dollars ($3,000)**. If the applicant meets all application, licensing, and zoning requirements, the proposed licensed premises would be inspected and, upon approval, an annual fee of **One Thousand Five Hundred Dollars ($1,500)** would be collected. This fee is intended to cover the cost of compliance checks by the Police Department and other applicable City departments.

Background Checks
One step in the licensing process is to conduct a background check on the applicant, manager, employees, and all of the financial interest holders in the proposed medical marijuana business. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.3-307. This statute includes a good moral character requirement for certain persons involved in the business as well as a detailed list of other circumstances under which a person is prohibited as a licensee. Background check fees will be **One Hundred Dollars ($100) per person**, consistent with current City fees.

Inspections
Licensed premises will be subject to inspection by both the Police Department and other City departments concerned with compliance issues. Books, records, and inventory of the business will need to be made available consistent with federal and state laws and provisions of Amendment 20 regarding patients' privacy. At no time will the City release or make public any confidential record, including patient information, except as otherwise required by law. All inspections will be consistent with the requirements set forth in C.R.S. § 12-43.3-701.

Location, Proximity, and Size
In addition to the permitted uses and zoning designations identified in Title 17, staff recommends the following criteria be included as part of the licensing regulations:

1. Allowed only in the Commercial Business (C-B) zone district;
2. A 1,320' separation requirement from schools, public playgrounds, outdoor pools, outdoor education facilities serving children, alcohol or drug treatment facilities, and residential childcare facilities;
3. A maximum allowance of no more than one medical marijuana business within a 1,320' radius;
4. A maximum leasable square feet allowance of 1,800 SF;
5. Not allowed on City property; and
6. Not allowed to operate as an outdoor vendor.

Distances described above shall be computed by direct measurement in a straight line from the nearest property line to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located. The purpose of these performance standards is threefold:

- The quarter mile (1,320-feet) school buffer requirement is generated from model ordinances from other communities. Separation requirements from such uses as schools, public playgrounds, outdoor pools, outdoor education facilities for children and residential child care facilities are advisable because of the concern that exposure of youth to medical marijuana businesses could decrease their perception of harm related to the use of marijuana or other drugs. 1,320-feet is the distance covered in a five minute walk at three miles per hour. It is also a distance referenced throughout the country as the maximum distance the majority of Americans consider a convenient distance to walk.
- A maximum of one medical marijuana business within a quarter mile (1,320 feet) radius is intended to avoid "clusters" of businesses so as to minimize their cumulative impact on any particular area of the community.
- The maximum leasable square foot allowance of eighteen hundred (1,800) square feet is intended to prevent over-sized facilities and to minimize cumulative impact on any particular area. 1,800 square feet is the typical size (30' by 60') provided to retail tenants within a strip center or Main Street environment.

Considering the combination of Title 17 amendments allowing medical marijuana businesses only in the C-B District, the spatial requirements, and the proposed licensing requirements, staff estimates that a maximum of three (3) medical marijuana centers could possibly locate within the City of Louisville.

Operations

The following requirements are consistent with State statutes and would apply to the medical marijuana businesses within Louisville:

1. Each center will be operated by the licensee or a designated manager.
2. On-site sales will be allowed only to patients and primary caregivers. Sales could

include marijuana in any usable form, plants, seeds, paraphernalia, and other retail merchandise. No mature marijuana plants can be sold or maintained at the MMCs. Quantities of marijuana sold to patients or primary caregivers will be limited to amounts permitted under Amendment 20 for personal medical use, which are limited to two ounces and six plants per patient, unless documentation from the patient's physician is provided evidencing a need in excess of these amounts.

3. Access to the licensed premises will be limited to those lawfully entitled under Section 14 of Article XVIII of the Colorado State Constitution to possess and use medical marijuana, as well as others whose presence is reasonably necessary to conduct business, assist patients, or repair, improve or inspect the licensed premises.
4. Food products containing marijuana must contain warning labels explaining legal limitations on possession and use. If the food has not been inspected by state or county health officials, the label must so indicate.
5. No on-site consumption of marijuana will be permitted.
6. No on-site cultivation of marijuana plants will be permitted.
7. Security requirements are consistent with state requirements.
8. Hours of operation will be limited to 8:00 AM to 7:00 PM.
9. Detailed transaction records will be required. Books and records will be subject to inspection by the City to ensure compliance with applicable regulations.
10. Signage must comply with the Commercial Development Design Standards and Guidelines (CDDSG) requirements. In addition, if the term "marijuana" or an equivalent symbol (e.g., marijuana leaf) is used on a sign, or in any advertising, it must be preceded by the word "medical."

Limitations on Cultivations Sites
No cultivation facilities are allowed in the City.

Limitations on Cultivation by Persons Exempt from Licensing
Patients and primary caregivers who are exempt from licensing would be allowed to cultivate, grow or process marijuana with the following restrictions:

1. No outdoor growing.
2. No more than twelve (12) marijuana plants may be grown, with a maximum of six (6) being mature plants.
3. No patient or primary caregiver may have more plants than they are entitled to possess under Section 14 of Article XVIII of the Colorado State Constitution.

AMENDMENTS TO TITLE 17
Ordinance # 1591, Series 2011 amends Title 17 of the LMC to define medical marijuana businesses that may receive licenses consistent with definitions in HB 10-1284 and to specify the permitted and non-permitted uses associated with medical marijuana businesses. While HB 10-1284 recognizes at a state level a license for cultivation activities on identified optional premises, the City ordinance expressly prohibits cultivation within the City.

SUBJECT: **ORDINANCE NO. 1590, SERIES 2011**
ORDINANCE NO. 1591, SERIES 2011

DATE: **MARCH 15, 2011**

HB 10-1284 established the State's regulatory framework and established medical marijuana industry definitions, including use of the term "medical marijuana center" instead of "medical marijuana dispensary". As a result, staff is recommending the current Section 17.08.321 of the Louisville Municipal Code be repealed in its entirety and Chapter 17.08 of the Louisville Municipal Code be amended by the addition of new Sections to provide definitions that are consistent with those in State law for the following:

Definitions

Sec. 17.08.263. Location.
Sec. 17.08.321.A.(1) Medical marijuana business.
Sec. 17.08.321.A.(2) Medical marijuana center.
Sec. 17.08.321.A.(3) Medical marijuana-infused products manufacturer.
Sec. 17.08.356.A.(1) Optional premises.
Sec. 17.08.356.A.(2) Optional premises cultivation operation.
Sec. 17.08.367. Person.

Other provisions of the ordinance state that only medical marijuana centers and manufacturers have the opportunity to apply for licensing within the City, and that all other types of medical marijuana businesses are prohibited. Activities of patients and caregivers that are recognized under Amendment 20 do not require licensing but are subject to certain limits.

Permitted Use

In this LMC revision, staff recommends that medical marijuana businesses be allowed as a permitted use only in the Commercial Business (C-B) District. The cultivation of medical marijuana is prohibited.

Section 17.16.040, Home Occupations, of the LMC is to be amended to reflect the new statutory definitions.

LOCAL LICENSING AUTHORITY ACTION

The Authority reviewed the proposed changes to Title 5 at its January 24, 2011 meeting. The Authority members indicated they were comfortable with the role they would play in the licensing process and indicated their general approval of the Title 5 revisions. The Authority will be developing additional rules of procedures to address certain details of the licensing process, and to establish a framework for the conduct of Authority licensing and disciplinary proceedings.

PLANNING COMMISSION ACTION

The Planning Commission reviewed the proposed changes to Title 17 during a public hearing January 13th and continued on February 10th, recommending the proposed ordinance be approved by City Council by a 4-2 vote.

During the deliberation, Planning Commission expanded the separation requirements to

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include public playgrounds, outdoor pools, and outdoor education facilities for children. The two Commissioners casting dissenting votes felt the proposed ordinance, with the expanded separation requirements, was adequate but felt it was inappropriate to allow medical marijuana businesses in the City of Louisville.

FISCAL IMPACT:
City staff anticipates that with the distance and location restrictions described above, a maximum of three medical marijuana businesses could be permitted to operate in the City. Two medical marijuana businesses currently operate in the City. Because there are only two, staff cannot disclose the revenue generated by these businesses without violating laws concerning the confidentiality of that information. However, if the two medical marijuana businesses continue to generate sales tax at the current rate, both businesses will be among the City's top 50 sales tax generating vendors for 2011. However, the cost of zoning, enforcement, licensing and supervision of medical marijuana businesses will at least partially offset the revenue generated by these businesses.

RECOMMENDATION:
Staff recommends that the Louisville City Council approve Ordinance # 1590, Series 2011 amending Titles 5 of the LMC to establish: a comprehensive licensing ordinance for all medical marijuana centers and infused products manufacturers, location requirements for medical marijuana businesses, and requirements governing the operation of these businesses.

Staff also recommends that the Louisville City Council approve Ordinance # 1591, Series 2011 amending Title 17 of the LMC to define medical marijuana businesses that may receive licenses consistent with definitions in HB 10-1284 and to specify the permitted and non-permitted uses associated with medical marijuana businesses.

ATTACHMENT(S):
1. Ordinance No. 1590, Series 2011 – (Title 5 Amendments)
2. Ordinance No. 1591, Series 2011 – (Title 17 Amendments)
3. HB 10-1284
4. Medical Marijuana Setback Map
5. Front Range Medical Marijuana Comparison Table

ORDINANCE NO. 1590
SERIES 2011

AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR MEDICAL MARIJUANA BUSINESSES

WHEREAS, Article XVIII, Section 14 of the Colorado Constitution, referred to as Amendment 20, was approved by Colorado voters in November 2000; and

WHEREAS, Amendment 20 creates a limited exception to the state's criminal laws for any "patient" or "primary caregiver" in lawful possession of a registry identification card to engage or assist in the medical use of marijuana and permits physicians to authorize medical marijuana use for patients who have been diagnosed with debilitating medical conditions; and

WHEREAS, Amendment 20 prohibits a patient from engaging in the medical use of marijuana in a way that endangers the health or well-being of any person or in the plain view of, or in a place open to, the general public; and

WHEREAS, the possession, use, sale, distribution or transportation of marijuana is still a violation of federal law and, when possessed, used, sold, distributed or transported for any purpose other than medical use, a violation of state law as well; and

WHEREAS, the Governor on June 7, 2010 signed into law House Bill 10-1284 (HB 10-1284) which provides guidance for local governments to regulate medical marijuana businesses; and

WHEREAS, HB 10-1284 outlines multiple options for local municipalities from the outright banning of medical marijuana businesses to establishing detailed regulation and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation and, in addition to the authority set forth in HB 10-1284 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to license and regulate businesses, occupations and establishments, and to otherwise exercise its police and other powers in the interest of the public health, safety and welfare; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain medical marijuana businesses as a permitted land use and license them with additional local licensing standards and regulations beyond those set forth in HB 10-1284, including without limitation provisions concerning such things as

additional or different distance restrictions, restrictions on the size of medical marijuana businesses, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, and standards that facility owners and employees must satisfy; and

WHEREAS, City staff has, pursuant to City Council direction, reviewed the issues, concerns and secondary effects that may be associated with the operation of medical marijuana businesses in the City and has presented proposed regulations pertaining to the same for the City Council's consideration; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to establish local regulations governing the possession and use of medical marijuana under Amendment 20; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by the Louisville Home Rule Charter and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 5 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 5.10 which shall read in its entirety as follows:

Chapter 5.10
MEDICAL MARIJUANA

Sec. 5.10.010. Purpose.
Sec. 5.10.020. Definitions.
Sec. 5.10.030. Classes of medical marijuana licenses.
Sec. 5.10.040. Authorization of the local licensing authority.
Sec. 5.10.050. License requirements; exemptions.
Sec. 5.10.060. Requirements of application for license; payment of application fees.
Sec. 5.10.070. Location criteria.
Sec. 5.10.080. Persons prohibited as licensees.
Sec. 5.10.090. Duration of license; renewal.
Sec. 5.10.100. Annual license fee.
Sec. 5.10.110. Use and display of license.
Sec. 5.10.120. Management of licensed premises.
Sec. 5.10.130. Change in manager, employee; change in financial interest; modification of premises.
Sec. 5.10.140. Hours of operation.

Sec. 5.10.150. Signage and advertising.
Sec. 5.10.160. Security requirements.
Sec. 5.10.170. Required notices.
Sec. 5.10.180. Cultivation and growing by licensees.
Sec. 5.10.190. Sale of edible products.
Sec. 5.10.200. Labeling.
Sec. 5.10.210. On-site consumption of medical marijuana.
Sec. 5.10.220. Prohibited acts.
Sec. 5.10.230. Visibility of activities; control of emissions.
Sec. 5.10.240. Disposal of marijuana byproducts.
Sec. 5.10.250. Deliveries of medical marijuana.
Sec. 5.10.260. Sales and use tax.
Sec. 5.10.270. Required books and records.
Sec. 5.10.280. Inspection of licensed premises.
Sec. 5.10.290. Non-renewal, suspension, or revocation of license.
Sec. 5.10.300. Violations and penalties.
Sec. 5.10.310. No City liability; indemnification.
Sec. 5.10.320. Other laws remain applicable.
Sec. 5.10.330. Severability.

Sec. 5.10.010 Purpose.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 14 of the Colorado Constitution and protect the rights of patients and their primary caregivers while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana business might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using medical marijuana businesses in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of medical marijuana businesses.

B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

Sec. 5.10.020. Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 20 means that certain voter initiated amendment to the Colorado Constitution adopted November 7, 2000, which added Section 14 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this chapter. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Cultivation means the process by which a person grows a marijuana plant.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, a creditor interest, or a directorship or officership.

Good cause, for purposes of denying, refusing to renew, suspending or revoking a license, means:

a) the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;
b) the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or
c) the licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center or medical marijuana-infused products manufacturer, or an ongoing nuisance condition emanating from or caused by the medical marijuana center or medical marijuana-infused products manufacturer.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a medical marijuana business pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means that portion of a property, building, or other structure which is owned or in possession of the licensee and which is used for the purpose of storing, processing, displaying for sale, selling or otherwise distributing medical marijuana or other products by a licensee.

Local licensing authority means the City of Louisville Local Licensing Authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Medical marijuana means marijuana that is grown and sold pursuant to the provisions of this chapter and for a purpose authorized by Section 14 of Article XVIII of the Colorado State Constitution.

Medical marijuana business shall mean any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.

Medical marijuana center means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-402 and this chapter that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.

Medical marijuana delivery business means a medical marijuana business that delivers medical marijuana to a patient or primary caregiver at a location other than a licensed premises.

Medical marijuana-infused products manufacturer means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-404 and this chapter.

Medical marijuana paraphernalia or *paraphernalia* means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

Minor patient means a patient less than eighteen (18) years of age.

Patient means a person who has a debilitating medical condition as defined in Amendment 20.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises means the legal parcel of property upon which a medical marijuana center or medical marijuana-infused product manufacturer is located.

Primary caregiver means a natural person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Registry identification card means that document, issued by the state, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary caregiver, if any has been designated.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana in this state, pursuant to C.R.S. § 12-43.3-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 20, C.R.S. § 12-43.3-101 et seq., C.R.S. § 25-1.5-106, and the rules and regulations promulgated by the state licensing authority, and such definitions are hereby incorporated into this chapter by this reference.

Sec. 5.10.030. Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A medical marijuana center license. A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-402 to registered patients or primary caregivers, but is not a primary caregiver.

2. A medical marijuana-infused products manufacturing license. A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-404.

Sec. 5.10.040. Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of medical marijuana businesses in the City of Louisville, including without limitation all such powers set forth in this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.

B. The local licensing authority may, consistent with the Code and applicable provisions of state law, grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section 5.08.130 of this Code and C.R.S.

§ 12-43.3-101 et seq. as from time to time amended.

Sec. 5.10.050. License requirements; exemptions.

A. Except as provided in subsection B. of this section, it shall be unlawful for any person to establish or operate a medical marijuana business in the city without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.

B. Primary caregivers who cultivate, possess or dispense medical marijuana to no more than five patients, and patients who cultivate or possess medical marijuana for their own medical use, are not considered medical marijuana businesses and are exempt from the licensing requirements of this chapter, but shall be subject to the following limitations:

1. All such cultivation shall be conducted entirely within a building or other fully enclosed structure.
2. Not more than twelve (12) marijuana plants may be cultivated or kept at the same parcel of property, of which no more than six (6) plants may be mature.
3. In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution and other applicable state laws and regulations.

Notwithstanding the above, the five patient limit shall not apply to primary caregivers who have been authorized by the state health agency to serve additional patients in exceptional circumstances in accordance with C.R.S. § 25-1.5-106(8)

Sec. 5.10.060. Requirements of application for license; payment of application fees.

A. A person seeking a license or renewal of a license issued pursuant to this chapter shall submit an application to the local licensing authority on forms provided by the city. At the time of application for a new license, the applicant shall pay a non-refundable application fee in the amount of Three Thousand Dollars ($3,000) to defray the costs incurred by the city for processing the application. A fee in the amount of One Hundred Dollars ($100) may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, employees, and other persons required to be qualified pursuant to this chapter. In addition, the applicant shall provide one (1) of the following forms of identification:

1. an identification card issued in accordance with C.R.S. § 42-2-302;
2. a valid state driver's license;

3. a valid driver's license containing a picture issued by another state;
4. a military identification card; or
5. a valid passport.

B. The applicant shall also provide the following information on a form approved by, or acceptable to, the city, which information shall be required for the applicant, the proposed manager and employees of the medical marijuana business, and all persons having a ten (10) percent or more financial interest in the medical marijuana business that is the subject of the application:

1. name, address, date of birth;
2. a complete set of fingerprints;
3. an acknowledgement and consent that the city will conduct a background investigation, including a criminal history check, and that the city will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of or relating to deposits, withdrawals, balances and loans;
4. if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
5. the name and complete address of the proposed medical marijuana business;
6. if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or medical marijuana-infused products manufacturer;
7. a copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
8. evidence of a valid sales tax license for the business;
9. if the medical marijuana center will be providing medical marijuana in edible form, evidence of any food establishment license or permit that may be required by the State;
10. a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the medical marijuana business, loading zones and all areas in which medical marijuana will be stored, processed or dispensed;
11. a comprehensive business plan for the medical marijuana business which shall contain, without limitation, the following:
    i. a security plan meeting the requirements of section 5.10.160;
    ii. a description of all products to be sold;
    iii. a signage plan that is in compliance with all applicable

requirements of Section 5.10.150, this Code and the Commercial Development Design Standards and Guidelines; and

iv. a plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations; and

12. any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center or medical marijuana-infused products manufacturer operation, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The Planning and Building Safety Department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of C.R.S. §§ 12-43.3-302 and -303. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the Planning and Building Safety Department has performed the inspection required by C.R.S. § 12-43.3-303(4).

Sec. 5.10.070. Location Criteria.

A. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located within one thousand three hundred twenty (1,320) feet of another medical marijuana center or medical marijuana infused product manufacturer.

B. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located:

1. within one thousand three hundred twenty (1,320) feet of: 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 child care facility;
2. upon any city property;
3. in a dwelling unit or any residentially zoned districts; or
4. within the Agricultural (A), Open Space (OS) Administrative Office (AO), Business Office (BO), Administrative Office Transitional (AO-T), Industrial (I), Planned Community Zone District (PCZD), Mixed Use (MU-R), Commercial Neighborhood (CN), or Commercial Community (CC) zone districts.

C. No licensed premises for a medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located in a physical space exceeding eighteen hundred (1,800) square feet of leasable floor space, nor shall such licensed premises ever exceed eighteen hundred (1,800) square feet of leasable floor space.

D. No medical marijuana center or medical marijuana-infused product manufacturer shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A, B and C above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A, B and C above to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located.

Sec. 5.10.080. Persons prohibited as licensees.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.3-307 and the rules and regulations promulgated by the State of Colorado.

B. No license provided by this chapter shall be issued to, held by, or renewed by any of the following:

1. A person until the annual fee therefor has been paid;
2. A person whose criminal history indicates that he or she is not of good moral character;
3. A corporation, if the criminal history of any of its officers, directors, or stockholders indicates that the officer, director, or stockholder is not of good moral character;
4. A partnership, association, limited liability company, or other entity, if the criminal history of any of its managers or officers or person having a ten (10) percent or more financial interest in such entity indicates he or she is not of good moral character;
5. A licensed physician making patient recommendations;
6. A person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character and reputation satisfactory to the respective licensing authority;
7. A person under twenty-one years of age;
8. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to:
    i. provide a surety bond or file any tax return with a taxing agency;
    ii. pay any taxes, interest, or penalties due;
    iii. pay any judgments due to a government agency;
    iv. stay out of default on a government-issued student loan;
    v. pay child support; or
    vi. remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency, or an outstanding delinquency for child support;
9. A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, or use of a controlled substance;
10. A person who employs another person at a medical marijuana business who has not passed a criminal history record check;
11. A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
12. A person whose authority to be a primary caregiver has been revoked by the state health agency;
13. A person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or
14. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that, for a person who submits an application for licensure pursuant to this chapter by May 1, 2011, this

requirement shall not apply to that person if the person was a resident of the state of Colorado on December 15, 2009.

C. In investigating the qualifications of an applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license.

D. As used in subsection C of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana center license or medical marijuana-infused product manufacturer license, the applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the local licensing authority. The local licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The local licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for local licensing purposes may request that the fingerprints on file be used. The local licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a local license pursuant to this chapter. The local licensing authority may verify any of the information an applicant is required to submit.

Sec. 5.10.090. Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one (1) original of such license for each medical marijuana center or medical marijuana-infused product manufacturer to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued,

and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than forty-five (45) days prior to the date of expiration of the license. No application for renewal shall be accepted by the local licensing authority prior to or after such date except as provided is subsection C, below. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee in the amount of five hundred dollars ($500.00) at the time the renewal application is submitted. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

Sec. 5.10.100. Annual license fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual license fee in an amount of One Thousand Five Hundred Dollars ($1,500). The annual license fee may be refunded if the application is denied.

Sec. 5.10.110. Use and display of license.

A. A license shall not be transferable to another person.

B. Each license shall be limited to use at the premises specified in the application for such license. Any change in location shall require the filing of an application for, and issuance of, a new license under the provisions of section 5.10.060 above.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana center or medical marijuana-infused product manufacturer.

D. Any person delivering medical marijuana in the city on behalf of a medical marijuana business shall have in his or her possession a true and accurate copy of the license held by said business and shall, upon request by any police officer of the city or by any other duly authorized law enforcement officer, produce the same for inspection.

Sec. 5.10.120. Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history contrary to the requirements described in Section 5.10.080.

Sec. 5.10.130. Change in manager, employee; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers or employees to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers and employees under Section 5.10.060 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken to qualify new managers and employees may be charged.

B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana business that is the subject of the license. Except as set forth in Subsection C. of this Section, such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of any corporation regardless of size. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history contrary to the requirements described in Section 5.10.080. A fee for the costs of each fingerprint analysis and background investigation undertaken pursuant to this chapter may be charged.

C. Any transfer or change of financial interest in the license holder that would effect a transfer of controlling interest in the license shall require the filing and processing of an application for a new license.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the rules and regulations promulgated by the state licensing authority. Each application for modification of premises shall be accompanied by an application fee of One Thousand Five Hundred dollars ($1,500.00).

Sec. 5.10.140. Hours of operation.

Medical marijuana centers may be open for business only between the hours of 8:00 a.m. and 7:00 p.m.

Sec. 5.10.150. Signage and advertising.

All signage and advertising for any medical marijuana center or medical marijuana-infused products manufacturer shall comply with all applicable provisions of this chapter, title 17 of this Code, and the City of Louisville's Commercial Development Design Standards and Guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

Sec. 5.10.160. Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all medical marijuana centers and medical marijuana-infused product manufacturers shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by C.R.S. § 12-43.3-101 et seq. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Sec. 5.10.170. Required notices.

A. There shall be posted in a conspicuous location in each medical marijuana center and medical marijuana-infused product manufacturer a legible sign containing warnings that:

1. the possession, use or distribution of marijuana is a violation of federal law;
2. the possession, use or distribution of marijuana for nonmedical purposes is a violation of state law;
3. it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
4. no one under the age of eighteen (18) years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state

registry card for such minor patient.

Sec. 5.10.180. Cultivation and growing by licensees.

The cultivation and growing of marijuana plants is prohibited within the City of Louisville, except as permitted under section 5.10.050.B.

Sec. 5.10.190. Sale of edible products.

A. Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes.

B. Any food products sold by a medical marijuana center shall either be inspected by an agency of the Colorado Department of Public Health and Environment or, if no such inspection has occurred, shall contain a label indicating the lack of any such inspection.

Sec. 5.10.200. Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that the marijuana is intended for use solely by the patient to whom it is sold and that any resale or redistribution of the marijuana to any person other than a patient or primary caregiver is a criminal violation.

Sec. 5.10.210. On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana center or medical marijuana-infused product manufacturer is prohibited.

Sec. 5.10.220. Prohibited acts.

A. It shall be unlawful for any licensee to:

1. employ any person to manage a medical marijuana center or medical marijuana infused-product manufacturer facility or to dispense medical marijuana who is not at least twenty-one (21) years of age or who has a criminal history contrary to the requirements described in Section 5.10.080;
2. sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient or primary caregiver;
3. sell, give, dispense or otherwise distribute to any patient or primary caregiver more than two (2) ounces of any usable form of medical marijuana within any seven-day period of time or in such other quantities allowed pursuant to Amendment 20;
4. to maintain, sell, dispense or otherwise distribute mature medical marijuana

plants at any medical marijuana center;

5. purchase or otherwise obtain from another licensed medical marijuana center in Colorado more medical marijuana than permitted by state law or regulation;
6. permit on the licensed premises any person other than:
    i. the licensee, the licensee's manager, employees and financial interest holders;
    ii. a patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20;
    iii. a minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card;
    iv. a primary caregiver in possession of his or her patient's registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the patient's primary caregiver, as submitted to the Colorado Department of Public Health and Environment;
    v. a person whose physical presence and assistance are necessary to assist a patient;
    vi. a person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business;
    vii. law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;
7. permit the sale or consumption of alcohol beverages on the licensed premises; or
8. cultivate or permit the cultivation of medical marijuana on the licensed premises.

Sec. 5.10.230. Visibility of activities; control of emissions.

A. All activities of medical marijuana centers and medical marijuana infused product manufacturers, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a center or infused product manufacturer so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana center or infused product manufacturer, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 5.10.240. Disposal of marijuana byproducts.

The disposal of medical marijuana, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

Sec. 5.10.250. Deliveries of medical marijuana.

Deliveries of medical marijuana and paraphernalia by licensees operating a medical marijuana delivery business, whether or not such business is conducted in conjunction with a city-licensed medical marijuana center or medical marijuana-infused product manufacturer, shall be made only to patients and primary caregivers and only in the amounts specified in Section 5.10.220.A.3 above. All such deliveries shall be subject to the record keeping requirements contained in Sec. 5.10.270 below.

Sec. 5.10.260. Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all medical marijuana, paraphernalia and other tangible personal property sold, dispensed, or purchased at the medical marijuana center, in accordance with the requirements of chapter 3.20 of this Code.

Sec. 5.10.270. Required books and records.

A. Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana business in any usable form. Such record shall include the following:

1. the identity of the seller and purchaser involved in each transaction;
2. the total quantity of, and amount paid for, the medical marijuana; and
3. the date, time and location of each transaction.

B. Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:

1. the patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;

2. the form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:
    i. an identification card issued in accordance with C.R.S. § 42-2-302,

C.R.S.,

ii. a valid state driver's license,

iii. a valid driver's license containing a picture issued by another state,

iv. a military identification card

v. a valid passport, or

vi. an alien registration card;

3. a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.

C. Information provided to the licensee by a patient or primary caregiver under the provisions of this section need not include any information regarding the patient's physician or medical condition.

D. All transactions shall be kept in a numerical register in the order in which they occur.

E. All records required to be kept under this chapter must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the city police department or other city departments pursuant to this chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

Sec. 5.10.280. Inspection of licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where medical marijuana is stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

D. Nothing in this Section or Section 5.10.070 shall require the disclosure of information contrary to the provisions of federal or state law or Amendment 20 which are intended to protect the privacy of patients.

Sec. 5.10.290. Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

Sec. 5.10.300. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

Sec. 5.10.310. No City liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the medical marijuana business for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on

account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana business that is the subject of the license.

Sec. 5.10.320 Other laws remain applicable.

A. To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional or stricter regulation shall control the establishment or operation of any medical marijuana business in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the State or federal government prohibits the sale or other distribution of marijuana through medical marijuana centers or medical marijuana-infused products manufacturers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Sec. 5.10.330. Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 2. Any owner or operator of an existing medical marijuana business within the City shall, on or before May 1, 2011, submit a complete application for a license under the provisions of Section 5.10.060 of the Louisville Municipal Code as

enacted by the adoption of this ordinance, whether or not such owner or operator has previously obtained any other license or permit related to such business. Said application shall be submitted to the City in the same business name and owner's name as appear on any other license or permit previously issued to such business by the City. If such application is for a location different than the present location of the medical marijuana business, said location must be consistent with the location requirements contained in Section 5.10.070 of the Louisville Municipal Code, as enacted by this ordinance, and consistent with the zoning requirements contained in Ordinance 1591 Series 2011. If such application for a new location is approved by the City, the establishment of the medical marijuana business at such new location shall be subject to all provisions and requirements of the Louisville Municipal Code, including those enacted by this ordinance and Ordinance No. 1591, Series 2011.

Section 3. Any person owning or operating an existing medical marijuana business in the City who fails to submit a complete application as required in Section 2 above, on or before May 2, 2011, shall, as of 12:00 a.m. on May 3, 2011, immediately cease operating said business until such time, if at all, that a new license has been issued by the City pursuant to chapter 5.10 of the Louisville Municipal Code.

Section 4. Any person owning or operating an existing medical marijuana business whose complete application for licensing is timely filed under Section 2, above, shall be allowed to continue to operate pending action on such application by the local licensing authority, during which period operations shall be conducted in accordance with all provisions and requirements of the Louisville Municipal Code, including those enacted by this ordinance and Ordinance No. 1591, Series 2011, except for any location or zone district requirements contained in this ordinance or Ordinance No. 1591, Series 2011, with which the existing business location does not comply on the effective date hereof, and except that the applicant shall not be required to pay the annual license fee until such time, if at all, that the local licensing authority approves a medical marijuana center or medical marijuana-infused products manufacturer license for the existing business. If such a license is issued, the existing medical marijuana business shall be permitted to remain in operation upon payment of the annual license fee and shall be subject to all provisions and requirements of the Louisville Municipal Code, including those enacted by this ordinance and Ordinance No. 1591, Series 2011, except for any location or zone district requirements contained in this ordinance or Ordinance No. 1591, Series 2011, with which the existing business location does not comply on the effective date hereof. For the purposes of this Ordinance, the term "existing medical marijuana business" shall mean any medical marijuana business that, prior to October 20, 2009, had filed business registration and had been issued a sales tax license from the City and has been continuously operated as a medical marijuana business in accordance with state and local laws and regulations since such date.

Section 5. Any person who submits an application for an existing medical marijuana business under Section 2 above and is denied the issuance of such license shall, immediately upon receipt of such notice of denial, cease operating said business. For the purpose of this provision, notice of denial shall be deemed to have been received ten (10) days from the date of mailing of the notice.

Section 6. The failure to cease operation of an existing medical marijuana business in violation of Section 2 or 3 of this Ordinance shall constitute the commission of a misdemeanor criminal offense by the owner and manager of the medical marijuana business, punishable by a fine of not more than $1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Any violation of any other provision of this Ordinance shall also constitute the commission of a misdemeanor criminal offense, punishable by a fine of not more than $1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this Ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 7. The moratorium imposed by Ordinance No. 1561, Series 2009 and extended by Ordinance Nos. 1570 and 1574, Series 2010, and Ordinance No. 1589, Series 2011, shall expire as of the effective date of this Ordinance, and the provisions of said Ordinances, shall thereafter be of no further force and effect.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2011.

_____
Charles L. Sisk, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light, Kelly & Dawes, P.C.

City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2011.

_____
Charles L. Sisk, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

ORDINANCE NO. 1591
SERIES 2011

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING MEDICAL MARIJUANA BUSINESSES

WHEREAS, Article XVIII, Section 14 of the Colorado Constitution, referred to as Amendment 20, was approved by Colorado voters in November 2000; and

WHEREAS, Amendment 20 created a limited exception to the state's criminal laws for any "patient" or "primary caregiver" in lawful possession of a registry identification card to engage or assist in the medical use of marijuana and permits physicians to authorize medical marijuana use for patients who have been diagnosed with debilitating medical conditions; and

WHEREAS, Amendment 20 prohibits a patient from engaging in the medical use of marijuana in a way that endangers the health or well-being of any person or in the plain view of, or in a place open to, the general public; and

WHEREAS, the possession, use, sale, distribution or transportation of marijuana is still a violation of federal law and, when possessed, used, sold, distributed or transported for any purpose other than medical use, a violation of state law as well; and

WHEREAS, the Governor on June 7, 2010 signed into law House Bill 10-1284 (HB 10-1284) which provides guidance for local governments to regulate medical marijuana businesses; and

WHEREAS, HB 10-1284 outlines multiple options for local municipalities from the outright banning of medical marijuana businesses to establishing detailed regulation and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation and, in addition to the authority set forth in HB 10-1284 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to establish zoning districts and zoning regulations regulating the use of land within the City; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain medical marijuana businesses as permitted land uses and license them with additional local licensing standards and regulations beyond those set forth in HB 10-1284, including without limitation provisions concerning such things as additional or different distance restrictions, restrictions on the size of medical marijuana businesses, minimum security measures, hours of operation, restrictions or requirements

pertaining to deliveries, restrictions on signage, and standards that facility owners and employees must satisfy; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has recommended the City Council approve the amendments to Title 17 of the Louisville Municipal Code set forth in this ordinance; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to establish local regulations governing the location and use of land for medical marijuana businesses; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 17.08.321 of the Louisville Municipal Code is hereby repealed in its entirety.

Section 2. Chapter 17.08 of the Louisville Municipal Code is hereby amended by the addition of new Sections 17.08.263, 17.08.321, 17.08.356 and 17.08.367, to read as follows:

Sec. 17.08.263. Location.
Location means a particular parcel of land that may be identified by an address or other descriptive means.

Sec. 17.08.321.A.(1) Medical marijuana business.
Medical marijuana business means any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.

Sec. 17.08.321.A.(2) Medical marijuana center.
Medical marijuana center means a person licensed pursuant to this code to operate a business as described in C.R.S. § 12-43.3-402 and chapter 5.10 of this code that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

Sec. 17.08.321.A.(3) Medical marijuana-infused products manufacturer.
Medical marijuana-infused products manufacturer means a person licensed pursuant to this code to operate a business as described in C.R.S. § 12-43.3-404 and chapter 5.10 of this code.

Sec. 17.08.356.A.(1) Optional premises.
Optional premises means the premises specified in an application for a medical marijuana center license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

Sec. 17.08.356.A.(2) Optional premises cultivation operation.
Optional premises cultivation operation means a business as described in C.R.S. § 12-43.3-403.

Sec. 17.08.367. Person.
Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Section 3. Section 17.12.030 of the Louisville Municipal Code is hereby amended by the addition of new use groups 29a, 29b, 29c and 29d, to read as follows:

Sec. 17.12.030. Use groups.

		Districts																
Use Groups		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-R R-E R-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I	PCZD	MUR
29a	Medical Marijuana Center	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N
29b	Medical Marijuana -infused products manufacturer	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N
29c	Optional premises	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
29d	Optional premises cultivation operation	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

Section 4. Section 17.16.040 of the Louisville Municipal Code is hereby amended to read as follows: (words added are **bold** and **underlined**; words deleted are **bold** and **stricken through**):

Sec. 17.16.040 Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; **medical marijuana ~~dispensaries~~ centers; medical marijuana – infused products manufacturers; medical marijuana optional premises cultivation operations**; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 5. Chapter 17.16 of the Louisville Municipal Code is hereby amended by the addition of a new Section 17.16.235, to read as follows:

Sec. 17.16.235 Medical marijuana business.

A. Except for medical marijuana center and medical marijuana-infused products manufacturer uses in locations permitted under sections 17.12.030 and 5.10.070 and licensed pursuant to chapter 5.10, and for those activities exempt from licensing under section 5.10.050.B, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any medical marijuana business.

B. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located:

1. within one thousand three hundred twenty (1,320) feet of another medical marijuana center or medical marijuana-infused product manufacturer.
2. within one thousand three hundred twenty (1,320) feet of: 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 child care facility;
3. upon any city property;
4. in a dwelling unit or any residentially zoned districts; or

5. within the Agricultural (A), Open Space (OS) Administrative Office (AO), Business Office (BO), Administrative Office Transitional (AO-T), Industrial (I), Planned Community Zone District (PCZD), Mixed Use (MU-R), Commercial Neighborhood (CN), or Commercial Community (CC) zone districts.

C. No licensed premises for a medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located in a physical space exceeding eighteen hundred (1,800) square feet of leasable floor space, nor shall such a licensed premises ever exceed eighteen hundred (1,800) square feet of leasable floor space.

D. No medical marijuana center or medical marijuana-infused product manufacturer shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections B and C above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections B and C above to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located.

Section 6. The restriction set forth in Section 17.16.235.B.1 as herein adopted shall not apply to an "existing medical marijuana business" as defined in Section 4 of Ordinance No. 1590, Series 2011, nor to a new license application upon sale of such a business; however, such business shall be subject to all other provisions and requirements of the Louisville Municipal Code, including without limitation those enacted by this ordinance and Ordinance No. 1590, Series 2011, and further, such restriction shall apply in the case of discontinuance or destruction as provided Chapter 17.36 of said Code.

Section 7. Any person who violates any provision of this ordinance shall be punished by a fine of not more than $1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 8. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that anyone part be declared invalid

Section 9. The repeal or modification of any portion of the Louisville Municipal Code by this ordinance shall not release, extinguish, alter, modify, or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall

have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits proceedings or prosecutions.

Section 10. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2011.

_____
Charles L. Sisk, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2011.

_____
Charles L. Sisk, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

CHAPTER 355

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 10-1284

BY REPRESENTATIVE(S) Massey and Summers, McCann, Rice, Labuda, Kagan, Pommer;
also SENATOR(S) Romer and Spence.

AN ACT

CONCERNING REGULATION OF MEDICAL MARIJUANA, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 43.3
Medical Marijuana

PART 1
COLORADO MEDICAL MARIJUANA CODE

12-43.3-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO MEDICAL MARIJUANA CODE".

12-43.3-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THIS ARTICLE SHALL BE DEEMED AN EXERCISE OF THE POLICE POWERS OF THE STATE FOR THE PROTECTION OF THE ECONOMIC AND SOCIAL WELFARE AND THE HEALTH, PEACE, AND MORALS OF THE PEOPLE OF THIS STATE.

(2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT IT IS UNLAWFUL UNDER STATE LAW TO CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL MEDICAL MARIJUANA, EXCEPT IN COMPLIANCE WITH THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION AND THIS ARTICLE OR WHEN ACTING AS A PRIMARY CAREGIVER IN COMPLIANCE WITH THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS OF SECTION 25-1.5-106, C.R.S.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

12-43.3-103. Applicability. (1) (a) ON JULY 1, 2010, A PERSON WHO IS OPERATING AN ESTABLISHED, LOCALLY APPROVED BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS OR A PERSON WHO HAS APPLIED TO A LOCAL GOVERNMENT TO OPERATE A LOCALLY APPROVED BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WHICH IS SUBSEQUENTLY GRANTED MAY CONTINUE TO OPERATE THAT BUSINESS IN ACCORDANCE WITH ANY APPLICABLE STATE OR LOCAL LAWS. "ESTABLISHED", AS USED IN THIS PARAGRAPH (a), SHALL MEAN OWNING OR LEASING A SPACE WITH A STOREFRONT AND REMITTING SALES TAXES IN A TIMELY MANNER ON RETAIL SALES OF THE BUSINESS AS REQUIRED PURSUANT TO 39-26-105, C.R.S., AS WELL AS ANY APPLICABLE LOCAL SALES TAXES.

(b) TO CONTINUE OPERATING A BUSINESS OR OPERATION AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1), THE OWNER SHALL, ON OR BEFORE AUGUST 1, 2010, COMPLETE FORMS AS PROVIDED BY THE DEPARTMENT OF REVENUE AND SHALL PAY A FEE, WHICH SHALL BE CREDITED TO THE MEDICAL MARIJUANA LICENSE CASH FUND ESTABLISHED PURSUANT TO SECTION 12-43.3-501. THE PURPOSE OF THE FEE SHALL BE TO PAY FOR THE DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY AND THE DEVELOPMENT OF APPLICATION PROCEDURES AND RULES NECESSARY TO IMPLEMENT THIS ARTICLE. PAYMENT OF THE FEE AND COMPLETION OF THE FORM SHALL NOT CREATE A LOCAL OR STATE LICENSE OR A PRESENT OR FUTURE ENTITLEMENT TO RECEIVE A LICENSE. AN OWNER ISSUED A LOCAL LICENSE AFTER AUGUST 1, 2010, SHALL COMPLETE THE FORMS AND PAY THE FEE PURSUANT TO THIS PARAGRAPH (b) WITHIN THIRTY DAYS OF ISSUANCE OF THE LOCAL LICENSE. IN ADDITION TO ANY CRIMINAL PENALTIES FOR SELLING WITHOUT A LICENSE, IT SHALL BE UNLAWFUL TO CONTINUE OPERATING A BUSINESS OR OPERATION WITHOUT FILING THE FORMS AND PAYING THE FEE AS DESCRIBED IN THIS SUBSECTION (b), AND ANY VIOLATION OF THIS SECTION SHALL BE PRIMA-FACIE EVIDENCE OF UNSATISFACTORY CHARACTER, RECORD, AND REPUTATION FOR ANY FUTURE APPLICATION FOR LICENSE UNDER THIS ARTICLE.

(c) A COUNTY, CITY AND COUNTY, OR MUNICIPALITY SHALL PROVIDE TO THE STATE LICENSING AUTHORITY, UPON REQUEST, A LIST THAT INCLUDES THE NAME AND LOCATION OF EACH LOCAL CENTER OR OPERATION LICENSED IN SAID COUNTY, CITY AND COUNTY, OR MUNICIPALITY SO THAT THE STATE LICENSING AUTHORITY CAN IDENTIFY ANY CENTER OR OPERATION OPERATING UNLAWFULLY.

(2) (a) PRIOR TO JULY 1, 2011, A COUNTY, CITY AND COUNTY, OR MUNICIPALITY MAY ADOPT AND ENFORCE A RESOLUTION OR ORDINANCE LICENSING, REGULATING, OR PROHIBITING THE CULTIVATION OR SALE OF MEDICAL MARIJUANA. IN A COUNTY, CITY AND COUNTY, OR MUNICIPALITY WHERE SUCH AN ORDINANCE OR RESOLUTION HAS BEEN ADOPTED, A PERSON WHO IS NOT REGISTERED AS A PATIENT OR PRIMARY CAREGIVER PURSUANT TO SECTION 25-1.5-106, C.R.S., AND WHO IS CULTIVATING OR SELLING MEDICAL MARIJUANA SHALL NOT BE ENTITLED TO AN AFFIRMATIVE DEFENSE TO A CRIMINAL PROSECUTION AS PROVIDED FOR IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION UNLESS THE PERSON IS IN COMPLIANCE WITH THE APPLICABLE COUNTY OR MUNICIPAL LAW.

(b) ON OR BEFORE SEPTEMBER 1, 2010, A BUSINESS OR OPERATION SHALL CERTIFY

THAT IT IS CULTIVATING AT LEAST SEVENTY PERCENT OF THE MEDICAL MARIJUANA NECESSARY FOR ITS OPERATION.

(c) ON AND AFTER JULY 1, 2011, ALL BUSINESSES FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS, AS DEFINED IN THIS ARTICLE, SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE.

12-43.3-104. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "GOOD CAUSE", FOR PURPOSES OF REFUSING OR DENYING A LICENSE RENEWAL, REINSTATEMENT, OR INITIAL LICENSE ISSUANCE, MEANS:

(a) THE LICENSEE OR APPLICANT HAS VIOLATED, DOES NOT MEET, OR HAS FAILED TO COMPLY WITH ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THIS ARTICLE, ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE, OR ANY SUPPLEMENTAL LOCAL LAW, RULES, OR REGULATIONS;

(b) THE LICENSEE OR APPLICANT HAS FAILED TO COMPLY WITH ANY SPECIAL TERMS OR CONDITIONS THAT WERE PLACED ON ITS LICENSE PURSUANT TO AN ORDER OF THE STATE OR LOCAL LICENSING AUTHORITY;

(c) THE LICENSED PREMISES HAVE BEEN OPERATED IN A MANNER THAT ADVERSELY AFFECTS THE PUBLIC HEALTH OR WELFARE OR THE SAFETY OF THE IMMEDIATE NEIGHBORHOOD IN WHICH THE ESTABLISHMENT IS LOCATED.

(2) "LICENSE" MEANS TO GRANT A LICENSE OR REGISTRATION PURSUANT TO THIS ARTICLE.

(3) "LICENSED PREMISES" MEANS THE PREMISES SPECIFIED IN AN APPLICATION FOR A LICENSE UNDER THIS ARTICLE, WHICH ARE OWNED OR IN POSSESSION OF THE LICENSEE AND WITHIN WHICH THE LICENSEE IS AUTHORIZED TO CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL MEDICAL MARIJUANA IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(4) "LICENSEE" MEANS A PERSON LICENSED OR REGISTERED PURSUANT TO THIS ARTICLE.

(5) "LOCAL LICENSING AUTHORITY" MEANS AN AUTHORITY DESIGNATED BY MUNICIPAL OR COUNTY CHARTER, MUNICIPAL ORDINANCE, OR COUNTY RESOLUTION.

(6) "LOCATION" MEANS A PARTICULAR PARCEL OF LAND THAT MAY BE IDENTIFIED BY AN ADDRESS OR OTHER DESCRIPTIVE MEANS.

(7) "MEDICAL MARIJUANA" MEANS MARIJUANA THAT IS GROWN AND SOLD PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND FOR A PURPOSE AUTHORIZED BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(8) "MEDICAL MARIJUANA CENTER" MEANS A PERSON LICENSED PURSUANT TO

THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-402 THAT SELLS MEDICAL MARIJUANA TO REGISTERED PATIENTS OR PRIMARY CAREGIVERS AS DEFINED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, BUT IS NOT A PRIMARY CAREGIVER.

(9) "MEDICAL MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT INFUSED WITH MEDICAL MARIJUANA THAT IS INTENDED FOR USE OR CONSUMPTION OTHER THAN BY SMOKING, INCLUDING BUT NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES. THESE PRODUCTS, WHEN MANUFACTURED OR SOLD BY A LICENSED MEDICAL MARIJUANA CENTER OR A MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER, SHALL NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF THE "COLORADO FOOD AND DRUG ACT", PART 4 OF ARTICLE 5 OF TITLE 25, C.R.S.

(10) "MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER" MEANS A PERSON LICENSED PURSUANT TO THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-404.

(11) "OPTIONAL PREMISES" MEANS THE PREMISES SPECIFIED IN AN APPLICATION FOR A MEDICAL MARIJUANA CENTER LICENSE WITH RELATED GROWING FACILITIES IN COLORADO FOR WHICH THE LICENSEE IS AUTHORIZED TO GROW AND CULTIVATE MARIJUANA FOR A PURPOSE AUTHORIZED BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(12) "OPTIONAL PREMISES CULTIVATION OPERATION" MEANS A PERSON LICENSED PURSUANT TO THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-403.

(13) "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, COMPANY, CORPORATION, LIMITED LIABILITY COMPANY, OR ORGANIZATION, OR A MANAGER, AGENT, OWNER, DIRECTOR, SERVANT, OFFICER, OR EMPLOYEE THEREOF.

(14) "PREMISES" MEANS A DISTINCT AND DEFINITE LOCATION, WHICH MAY INCLUDE A BUILDING, A PART OF A BUILDING, A ROOM, OR ANY OTHER DEFINITE CONTIGUOUS AREA.

(15) "SCHOOL" MEANS A PUBLIC OR PRIVATE PRESCHOOL OR A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL.

(16) "STATE LICENSING AUTHORITY" MEANS THE AUTHORITY CREATED FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA IN THIS STATE, PURSUANT TO SECTION 12-43.3-201.

12-43.3-105. Limited access areas. SUBJECT TO THE PROVISIONS OF 12-43.3-701, A LIMITED ACCESS AREA SHALL BE A BUILDING, ROOM, OR OTHER CONTIGUOUS AREA UPON THE LICENSED PREMISES WHERE MEDICAL MARIJUANA IS GROWN, CULTIVATED, STORED, WEIGHED, DISPLAYED, PACKAGED, SOLD, OR POSSESSED FOR SALE, UNDER CONTROL OF THE LICENSEE, WITH LIMITED ACCESS TO ONLY THOSE PERSONS LICENSED BY THE STATE LICENSING AUTHORITY. ALL AREAS OF INGRESS OR EGRESS TO LIMITED ACCESS AREAS SHALL BE CLEARLY IDENTIFIED AS

SUCH BY A SIGN AS DESIGNATED BY THE STATE LICENSING AUTHORITY.

12-43.3-106. Local option. THE OPERATION OF THIS ARTICLE SHALL BE STATEWIDE UNLESS A MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY, BY EITHER A MAJORITY OF THE REGISTERED ELECTORS OF THE MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY VOTING AT A REGULAR ELECTION OR SPECIAL ELECTION CALLED IN ACCORDANCE WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10 OF TITLE 31, C.R.S., OR THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S., AS APPLICABLE, OR A MAJORITY OF THE MEMBERS OF THE GOVERNING BOARD FOR THE MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY, VOTE TO PROHIBIT THE OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES.

PART 2
STATE LICENSING AUTHORITY

12-43.3-201. State licensing authority - creation - repeal. (1) FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA IN THIS STATE, THERE IS HEREBY CREATED THE STATE LICENSING AUTHORITY, WHICH SHALL BE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR THE DEPUTY DIRECTOR OF THE DEPARTMENT OF REVENUE IF THE EXECUTIVE DIRECTOR SO DESIGNATES.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL BE THE CHIEF ADMINISTRATIVE OFFICER OF THE STATE LICENSING AUTHORITY AND MAY EMPLOY, PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, SUCH OFFICERS AND EMPLOYEES AS MAY BE DETERMINED TO BE NECESSARY, WHICH OFFICERS AND EMPLOYEES SHALL BE PART OF THE DEPARTMENT OF REVENUE. THE STATE LICENSING AUTHORITY SHALL, AT ITS DISCRETION, BASED UPON WORKLOAD, EMPLOY NO MORE THAN ONE FULL TIME EQUIVALENT EMPLOYEE FOR EACH TEN MEDICAL MARIJUANA CENTERS LICENSED BY OR MAKING APPLICATION WITH THE AUTHORITY. NO MONEYS SHALL BE APPROPRIATED TO THE STATE LICENSING AUTHORITY FROM THE GENERAL FUND FOR THE OPERATION OF THIS ARTICLE, NOR SHALL THE STATE LICENSING AUTHORITY EXPEND ANY GENERAL FUND MONEYS FOR THE OPERATION OF THIS ARTICLE.

(3) (a) DURING FISCAL YEAR 2010-2011, THE STATE LICENSING AUTHORITY SHALL CONSIDER EMPLOYMENT OF TEMPORARY OR CONTRACT STAFF TO CONDUCT BACKGROUND INVESTIGATIONS. THE ADDITIONAL COST OF THE BACKGROUND INVESTIGATIONS SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

(b) ON JULY 1, 2010, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL LOAN TO THE STATE LICENSING AUTHORITY, CREATED IN 12-43.3-201, A SUM NOT TO EXCEED ONE MILLION DOLLARS FROM THE MEDICAL MARIJUANA CASH FUND CREATED IN 25-1.5-106. THE STATE LICENSING AUTHORITY SHALL PAY BACK THE ONE MILLION DOLLAR LOAN TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT NO LATER THAN DECEMBER 31, 2010.

(c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2011.

12-43.3-202. Powers and duties of state licensing authority - repeal. (1) THE STATE LICENSING AUTHORITY SHALL:

(a) GRANT OR REFUSE STATE LICENSES FOR THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA AS PROVIDED BY LAW; SUSPEND, FINE, RESTRICT, OR REVOKE SUCH LICENSES UPON A VIOLATION OF THIS ARTICLE, OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE; AND IMPOSE ANY PENALTY AUTHORIZED BY THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION PURSUANT TO THIS ARTICLE AS IT MAY WITH RESPECT TO A LICENSE PURSUANT TO THIS ARTICLE, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE.

(b) (I) PROMULGATE SUCH RULES AND SUCH SPECIAL RULINGS AND FINDINGS AS NECESSARY FOR THE PROPER REGULATION AND CONTROL OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA AND FOR THE ENFORCEMENT OF THIS ARTICLE. A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT HAS ADOPTED A TEMPORARY MORATORIUM REGARDING THE SUBJECT MATTER OF THIS ARTICLE SHALL BE SPECIFICALLY AUTHORIZED TO EXTEND THE MORATORIUM UNTIL THE EFFECTIVE DATE OF THE RULES ADOPTED BY THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH THIS ARTICLE.

(II) (A) THE STATE LICENSING AUTHORITY SHALL CONDUCT A PUBLIC REVIEW HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT BY SEPTEMBER 1, 2010, TO RECEIVE PUBLIC INPUT ON ANY EMERGENCY RULES ADOPTED BY THE STATE LICENSING AUTHORITY AND BE PROVIDED WITH AN UPDATE FROM THE INDUSTRY, CAREGIVERS, PATIENTS, AND OTHER STAKEHOLDERS REGARDING THE INDUSTRY'S CURRENT STATUS. THE STATE LICENSING AUTHORITY SHALL PROVIDE AT LEAST FIVE BUSINESS DAYS' NOTICE PRIOR TO THE HEARING.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

(c) HEAR AND DETERMINE AT A PUBLIC HEARING ANY APPEALS OF A STATE LICENSE DENIAL AND ANY COMPLAINTS AGAINST A LICENSEE AND ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF ANY HEARING SO HELD, ALL IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S. THE STATE LICENSING AUTHORITY MAY, AT ITS DISCRETION, DELEGATE TO THE DEPARTMENT OF REVENUE HEARING OFFICERS THE AUTHORITY TO CONDUCT LICENSING, DISCIPLINARY, AND RULEMAKING HEARINGS UNDER SECTION 24-4-105, C.R.S. WHEN CONDUCTING SUCH HEARINGS, THE HEARING OFFICERS SHALL BE EMPLOYEES OF THE STATE LICENSING AUTHORITY UNDER THE DIRECTION AND SUPERVISION OF THE EXECUTIVE DIRECTOR AND THE STATE LICENSING AUTHORITY.

(d) MAINTAIN THE CONFIDENTIALITY OF REPORTS OBTAINED FROM A LICENSEE SHOWING THE SALES VOLUME OR QUANTITY OF MEDICAL MARIJUANA SOLD OR ANY OTHER RECORDS THAT ARE EXEMPT FROM PUBLIC INSPECTION PURSUANT TO STATE LAW;

(e) DEVELOP SUCH FORMS, LICENSES, IDENTIFICATION CARDS, AND APPLICATIONS AS ARE NECESSARY OR CONVENIENT IN THE DISCRETION OF THE STATE LICENSING

AUTHORITY FOR THE ADMINISTRATION OF THIS ARTICLE OR ANY OF THE RULES PROMULGATED UNDER THIS ARTICLE;

(f) PREPARE AND TRANSMIT ANNUALLY, IN THE FORM AND MANNER PRESCRIBED BY THE HEADS OF THE PRINCIPAL DEPARTMENTS PURSUANT TO SECTION 24-1-136, C.R.S., A REPORT ACCOUNTING TO THE GOVERNOR FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY LAW OR DIRECTIVE TO THE STATE LICENSING AUTHORITY; AND

(g) IN RECOGNITION OF THE POTENTIAL MEDICINAL VALUE OF MEDICAL MARIJUANA, MAKE A REQUEST BY JANUARY 1, 2012, TO THE FEDERAL DRUG ENFORCEMENT ADMINISTRATION TO CONSIDER RESCHEDULING, FOR PHARMACEUTICAL PURPOSES, MEDICAL MARIJUANA FROM A SCHEDULE I CONTROLLED SUBSTANCE TO A SCHEDULE II CONTROLLED SUBSTANCE.

(2) (a) RULES PROMULGATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING SUBJECTS:

(I) COMPLIANCE WITH, ENFORCEMENT OF, OR VIOLATION OF ANY PROVISION OF THIS ARTICLE, OR ANY RULE ISSUED PURSUANT TO THIS ARTICLE, INCLUDING PROCEDURES AND GROUNDS FOR DENYING, SUSPENDING, FINING, RESTRICTING, OR REVOKING A STATE LICENSE ISSUED PURSUANT TO THIS ARTICLE;

(II) SPECIFICATIONS OF DUTIES OF OFFICERS AND EMPLOYEES OF THE STATE LICENSING AUTHORITY;

(III) INSTRUCTIONS FOR LOCAL LICENSING AUTHORITIES AND LAW ENFORCEMENT OFFICERS;

(IV) REQUIREMENTS FOR INSPECTIONS, INVESTIGATIONS, SEARCHES, SEIZURES, AND SUCH ADDITIONAL ACTIVITIES AS MAY BECOME NECESSARY FROM TIME TO TIME;

(V) CREATION OF A RANGE OF PENALTIES FOR USE BY THE STATE LICENSING AUTHORITY;

(VI) PROHIBITION OF MISREPRESENTATION AND UNFAIR PRACTICES;

(VII) CONTROL OF INFORMATIONAL AND PRODUCT DISPLAYS ON LICENSED PREMISES;

(VIII) DEVELOPMENT OF INDIVIDUAL IDENTIFICATION CARDS FOR OWNERS, OFFICERS, MANAGERS, CONTRACTORS, EMPLOYEES, AND OTHER SUPPORT STAFF OF ENTITIES LICENSED PURSUANT TO THIS ARTICLE, INCLUDING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS MAY BE REQUIRED BY THE STATE LICENSING AUTHORITY PRIOR TO ISSUING A CARD;

(IX) IDENTIFICATION OF STATE LICENSEES AND THEIR OWNERS, OFFICERS, MANAGERS, AND EMPLOYEES;

(X) SECURITY REQUIREMENTS FOR ANY PREMISES LICENSED PURSUANT TO THIS

ARTICLE, INCLUDING, AT A MINIMUM, LIGHTING, PHYSICAL SECURITY, VIDEO, ALARM REQUIREMENTS, AND OTHER MINIMUM PROCEDURES FOR INTERNAL CONTROL AS DEEMED NECESSARY BY THE STATE LICENSING AUTHORITY TO PROPERLY ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE, INCLUDING REPORTING REQUIREMENTS FOR CHANGES, ALTERATIONS, OR MODIFICATIONS TO THE PREMISES;

(XI) REGULATION OF THE STORAGE OF, WAREHOUSES FOR, AND TRANSPORTATION OF MEDICAL MARIJUANA;

(XII) SANITARY REQUIREMENTS FOR MEDICAL MARIJUANA CENTERS, INCLUDING BUT NOT LIMITED TO SANITARY REQUIREMENTS FOR THE PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS;

(XIII) THE SPECIFICATION OF ACCEPTABLE FORMS OF PICTURE IDENTIFICATION THAT A MEDICAL MARIJUANA CENTER MAY ACCEPT WHEN VERIFYING A SALE;

(XIV) LABELING STANDARDS;

(XV) RECORDS TO BE KEPT BY LICENSEES AND THE REQUIRED AVAILABILITY OF THE RECORDS;

(XVI) STATE LICENSING PROCEDURES, INCLUDING PROCEDURES FOR RENEWALS, REINSTATEMENTS, INITIAL LICENSES, AND THE PAYMENT OF LICENSING FEES;

(XVII) THE REPORTING AND TRANSMITTAL OF MONTHLY SALES TAX PAYMENTS BY MEDICAL MARIJUANA CENTERS;

(XVIII) AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO HAVE ACCESS TO LICENSING INFORMATION TO ENSURE SALES AND INCOME TAX PAYMENT AND THE EFFECTIVE ADMINISTRATION OF THIS ARTICLE;

(XIX) AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO ISSUE ADMINISTRATIVE CITATIONS AND PROCEDURES FOR ISSUING, APPEALING AND CREATING A CITATION VIOLATION LIST AND SCHEDULE OF PENALTIES; AND

(XX) SUCH OTHER MATTERS AS ARE NECESSARY FOR THE FAIR, IMPARTIAL, STRINGENT, AND COMPREHENSIVE ADMINISTRATION OF THIS ARTICLE.

(b) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DELEGATING TO THE STATE LICENSING AUTHORITY THE POWER TO FIX PRICES FOR MEDICAL MARIJUANA.

(c) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT A LAW ENFORCEMENT AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER. A LAW ENFORCEMENT AGENCY SHALL HAVE THE AUTHORITY TO RUN A COLORADO CRIME INFORMATION CENTER CRIMINAL HISTORY RECORD CHECK OF A PRIMARY CAREGIVER, LICENSEE, OR EMPLOYEE OF A LICENSEE DURING AN INVESTIGATION OF UNLAWFUL ACTIVITY RELATED TO MEDICAL MARIJUANA.

PART 3
STATE AND LOCAL LICENSING

12-43.3-301. Local licensing authority - applications - licenses. (1) A LOCAL LICENSING AUTHORITY MAY ISSUE ONLY THE FOLLOWING MEDICAL MARIJUANA LICENSES UPON PAYMENT OF THE FEE AND COMPLIANCE WITH ALL LOCAL LICENSING REQUIREMENTS TO BE DETERMINED BY THE LOCAL LICENSING AUTHORITY:

(a) A MEDICAL MARIJUANA CENTER LICENSE;

(b) AN OPTIONAL PREMISES CULTIVATION LICENSE;

(c) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE.

(2) (a) A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LOCAL LICENSE WITHIN A MUNICIPALITY, CITY AND COUNTY, OR THE UNINCORPORATED PORTION OF A COUNTY UNLESS THE GOVERNING BODY OF THE MUNICIPALITY OR CITY AND COUNTY HAS ADOPTED AN ORDINANCE, OR THE GOVERNING BODY OF THE COUNTY HAS ADOPTED A RESOLUTION, CONTAINING SPECIFIC STANDARDS FOR LICENSE ISSUANCE, OR IF NO SUCH ORDINANCE OR RESOLUTION IS ADOPTED PRIOR TO JULY 1, 2011, THEN A LOCAL LICENSING AUTHORITY SHALL CONSIDER THE MINIMUM LICENSING REQUIREMENTS OF THIS PART 3 WHEN ISSUING A LICENSE.

(b) IN ADDITION TO ALL OTHER STANDARDS APPLICABLE TO THE ISSUANCE OF LICENSES UNDER THIS ARTICLE, THE LOCAL GOVERNING BODY MAY ADOPT ADDITIONAL STANDARDS FOR THE ISSUANCE OF MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSES CONSISTENT WITH THE INTENT OF THIS ARTICLE THAT MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) DISTANCE RESTRICTIONS BETWEEN PREMISES FOR WHICH LOCAL LICENSES ARE ISSUED;

(II) REASONABLE RESTRICTIONS ON THE SIZE OF AN APPLICANT'S LICENSED PREMISES; AND

(III) ANY OTHER REQUIREMENTS NECESSARY TO ENSURE THE CONTROL OF THE PREMISES AND THE EASE OF ENFORCEMENT OF THE TERMS AND CONDITIONS OF THE LICENSE.

(3) AN APPLICATION FOR A LICENSE SPECIFIED IN SUBSECTION (1) OF THIS SECTION SHALL BE FILED WITH THE APPROPRIATE LOCAL LICENSING AUTHORITY ON FORMS PROVIDED BY THE STATE LICENSING AUTHORITY AND SHALL CONTAIN SUCH INFORMATION AS THE STATE LICENSING AUTHORITY MAY REQUIRE AND ANY FORMS AS THE LOCAL LICENSING AUTHORITY MAY REQUIRE. EACH APPLICATION SHALL BE VERIFIED BY THE OATH OR AFFIRMATION OF THE PERSONS PRESCRIBED BY THE STATE LICENSING AUTHORITY.

(4) AN APPLICANT SHALL FILE AT THE TIME OF APPLICATION FOR A LOCAL LICENSE PLANS AND SPECIFICATIONS FOR THE INTERIOR OF THE BUILDING IF THE BUILDING TO BE OCCUPIED IS IN EXISTENCE AT THE TIME. IF THE BUILDING IS NOT IN EXISTENCE,

THE APPLICANT SHALL FILE A PLOT PLAN AND A DETAILED SKETCH FOR THE INTERIOR AND SUBMIT AN ARCHITECT'S DRAWING OF THE BUILDING TO BE CONSTRUCTED. IN ITS DISCRETION, THE LOCAL OR STATE LICENSING AUTHORITY MAY IMPOSE ADDITIONAL REQUIREMENTS NECESSARY FOR THE APPROVAL OF THE APPLICATION.

12-43.3-302. Public hearing notice - posting and publication. (1) UPON RECEIPT OF AN APPLICATION FOR A LOCAL LICENSE, EXCEPT AN APPLICATION FOR RENEWAL OR FOR TRANSFER OF OWNERSHIP, A LOCAL LICENSING AUTHORITY MAY SCHEDULE A PUBLIC HEARING UPON THE APPLICATION TO BE HELD NOT LESS THAN THIRTY DAYS AFTER THE DATE OF THE APPLICATION. IF THE LOCAL LICENSING AUTHORITY SCHEDULES A HEARING FOR A MEDICAL MARIJUANA CENTER APPLICATION, IT SHALL POST AND PUBLISH PUBLIC NOTICE THEREOF NOT LESS THAN TEN DAYS PRIOR TO THE HEARING. THE LOCAL LICENSING AUTHORITY SHALL GIVE PUBLIC NOTICE BY THE POSTING OF A SIGN IN A CONSPICUOUS PLACE ON THE MEDICAL MARIJUANA CENTER PREMISES FOR WHICH APPLICATION HAS BEEN MADE AND BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE MEDICAL MARIJUANA CENTER PREMISES ARE LOCATED.

(2) PUBLIC NOTICE GIVEN BY POSTING SHALL INCLUDE A SIGN OF SUITABLE MATERIAL, NOT LESS THAN TWENTY-TWO INCHES WIDE AND TWENTY-SIX INCHES HIGH, COMPOSED OF LETTERS NOT LESS THAN ONE INCH IN HEIGHT AND STATING THE TYPE OF LICENSE APPLIED FOR, THE DATE OF THE APPLICATION, THE DATE OF THE HEARING, THE NAME AND ADDRESS OF THE APPLICANT, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED TO FULLY APPRISE THE PUBLIC OF THE NATURE OF THE APPLICATION. THE SIGN SHALL CONTAIN THE NAMES AND ADDRESSES OF THE OFFICERS, DIRECTORS, OR MANAGER OF THE FACILITY TO BE LICENSED.

(3) PUBLIC NOTICE GIVEN BY PUBLICATION SHALL CONTAIN THE SAME INFORMATION AS THAT REQUIRED FOR SIGNS.

(4) IF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD IS IN EXISTENCE AT THE TIME OF THE APPLICATION, A SIGN POSTED AS REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL BE PLACED SO AS TO BE CONSPICUOUS AND PLAINLY VISIBLE TO THE GENERAL PUBLIC. IF THE BUILDING IS NOT CONSTRUCTED AT THE TIME OF THE APPLICATION, THE APPLICANT SHALL POST A SIGN AT THE PREMISES UPON WHICH THE BUILDING IS TO BE CONSTRUCTED IN SUCH A MANNER THAT THE NOTICE SHALL BE CONSPICUOUS AND PLAINLY VISIBLE TO THE GENERAL PUBLIC.

(5) (a) A LOCAL LICENSING AUTHORITY, OR A LICENSE APPLICANT WITH LOCAL LICENSING AUTHORITY APPROVAL, MAY REQUEST THAT THE STATE LICENSING AUTHORITY CONDUCT A CONCURRENT REVIEW OF A NEW LICENSE APPLICATION PRIOR TO THE LOCAL LICENSING AUTHORITY'S FINAL APPROVAL OF THE LICENSE APPLICATION. LOCAL LICENSING AUTHORITIES WHO PERMIT A CONCURRENT REVIEW WILL CONTINUE TO INDEPENDENTLY REVIEW THE APPLICANT'S LICENSE APPLICATION.

(b) WHEN CONDUCTING A CONCURRENT APPLICATION REVIEW, THE STATE LICENSING AUTHORITY MAY ADVISE THE LOCAL LICENSING AUTHORITY OF ANY ITEMS THAT IT FINDS THAT COULD RESULT IN THE DENIAL OF THE LICENSE APPLICATION. UPON CORRECTION OF THE NOTED DISCREPANCIES IF THE CORRECTION IS PERMITTED BY THE STATE LICENSING AUTHORITY, THE STATE LICENSING AUTHORITY SHALL

NOTIFY THE LOCAL LICENSING AUTHORITY OF ITS CONDITIONAL APPROVAL OF THE LICENSE APPLICATION SUBJECT TO THE FINAL APPROVAL BY THE LOCAL LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL THEN ISSUE THE APPLICANT'S STATE LICENSE UPON RECEIVING EVIDENCE OF FINAL APPROVAL BY THE LOCAL LICENSING AUTHORITY.

(c) ALL APPLICATIONS SUBMITTED FOR CONCURRENT REVIEW SHALL BE ACCOMPANIED BY ALL APPLICABLE STATE LICENSE AND APPLICATION FEES. ANY APPLICATIONS THAT ARE LATER DENIED OR WITHDRAWN MAY ALLOW FOR A REFUND OF LICENSE FEES ONLY. ALL APPLICATION FEES PROVIDED BY AN APPLICANT SHALL BE RETAINED BY THE RESPECTIVE LICENSING AUTHORITY.

12-43.3-303. Results of investigation - decision of authorities. (1) NOT LESS THAN FIVE DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING AUTHORIZED IN SECTION 12-43.3-302, THE LOCAL LICENSING AUTHORITY SHALL MAKE KNOWN ITS FINDINGS, BASED ON ITS INVESTIGATION, IN WRITING TO THE APPLICANT AND OTHER PARTIES OF INTEREST. THE LOCAL LICENSING AUTHORITY HAS AUTHORITY TO REFUSE TO ISSUE A LICENSE PROVIDED FOR IN THIS SECTION FOR GOOD CAUSE, SUBJECT TO JUDICIAL REVIEW.

(2) BEFORE ENTERING A DECISION APPROVING OR DENYING THE APPLICATION FOR A LOCAL LICENSE, THE LOCAL LICENSING AUTHORITY MAY CONSIDER, EXCEPT WHERE THIS ARTICLE SPECIFICALLY PROVIDES OTHERWISE, THE FACTS AND EVIDENCE ADDUCED AS A RESULT OF ITS INVESTIGATION, AS WELL AS ANY OTHER FACTS PERTINENT TO THE TYPE OF LICENSE FOR WHICH APPLICATION HAS BEEN MADE, INCLUDING THE NUMBER, TYPE, AND AVAILABILITY OF MEDICAL MARIJUANA OUTLETS LOCATED IN OR NEAR THE PREMISES UNDER CONSIDERATION, AND ANY OTHER PERTINENT MATTERS AFFECTING THE QUALIFICATIONS OF THE APPLICANT FOR THE CONDUCT OF THE TYPE OF BUSINESS PROPOSED.

(3) WITHIN THIRTY DAYS AFTER THE PUBLIC HEARING OR COMPLETION OF THE APPLICATION INVESTIGATION, A LOCAL LICENSING AUTHORITY SHALL ISSUE ITS DECISION APPROVING OR DENYING AN APPLICATION FOR LOCAL LICENSURE. THE DECISION SHALL BE IN WRITING AND SHALL STATE THE REASONS FOR THE DECISION. THE LOCAL LICENSING AUTHORITY SHALL SEND A COPY OF THE DECISION BY CERTIFIED MAIL TO THE APPLICANT AT THE ADDRESS SHOWN IN THE APPLICATION.

(4) AFTER APPROVAL OF AN APPLICATION, A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LOCAL LICENSE UNTIL THE BUILDING IN WHICH THE BUSINESS TO BE CONDUCTED IS READY FOR OCCUPANCY WITH SUCH FURNITURE, FIXTURES, AND EQUIPMENT IN PLACE AS ARE NECESSARY TO COMPLY WITH THE APPLICABLE PROVISIONS OF THIS ARTICLE, AND THEN ONLY AFTER THE LOCAL LICENSING AUTHORITY HAS INSPECTED THE PREMISES TO DETERMINE THAT THE APPLICANT HAS COMPLIED WITH THE ARCHITECT'S DRAWING AND THE PLOT PLAN AND DETAILED SKETCH FOR THE INTERIOR OF THE BUILDING SUBMITTED WITH THE APPLICATION.

(5) AFTER APPROVAL OF AN APPLICATION FOR LOCAL LICENSURE, THE LOCAL LICENSING AUTHORITY SHALL NOTIFY THE STATE LICENSING AUTHORITY OF SUCH APPROVAL, WHO SHALL INVESTIGATE AND EITHER APPROVE OR DISAPPROVE THE APPLICATION FOR STATE LICENSURE.

12-43.3-304. Medical marijuana license bond. (1) BEFORE THE STATE LICENSING AUTHORITY ISSUES A STATE LICENSE TO AN APPLICANT, THE APPLICANT SHALL PROCURE AND FILE WITH THE STATE LICENSING AUTHORITY EVIDENCE OF A GOOD AND SUFFICIENT BOND IN THE AMOUNT OF FIVE THOUSAND DOLLARS WITH CORPORATE SURETY THEREON DULY LICENSED TO DO BUSINESS WITH THE STATE, APPROVED AS TO FORM BY THE ATTORNEY GENERAL OF THE STATE, AND CONDITIONED THAT THE APPLICANT SHALL REPORT AND PAY ALL SALES AND USE TAXES DUE TO THE STATE, OR FOR WHICH THE STATE IS THE COLLECTOR OR COLLECTING AGENT, IN A TIMELY MANNER, AS PROVIDED IN LAW.

(2) A CORPORATE SURETY SHALL NOT BE REQUIRED TO MAKE PAYMENTS TO THE STATE CLAIMING UNDER SUCH BOND UNTIL A FINAL DETERMINATION OF FAILURE TO PAY TAXES DUE TO THE STATE HAS BEEN MADE BY THE STATE LICENSING AUTHORITY OR A COURT OF COMPETENT JURISDICTION.

(3) ALL BONDS REQUIRED PURSUANT TO THIS SECTION SHALL BE RENEWED AT SUCH TIME AS THE BONDHOLDER'S LICENSE IS RENEWED. THE RENEWAL MAY BE ACCOMPLISHED THROUGH A CONTINUATION CERTIFICATE ISSUED BY THE SURETY.

12-43.3-305. State licensing authority - application and issuance procedures. (1) APPLICATIONS FOR A STATE LICENSE UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE MADE TO THE STATE LICENSING AUTHORITY ON FORMS PREPARED AND FURNISHED BY THE STATE LICENSING AUTHORITY AND SHALL SET FORTH SUCH INFORMATION AS THE STATE LICENSING AUTHORITY MAY REQUIRE TO ENABLE THE STATE LICENSING AUTHORITY TO DETERMINE WHETHER A STATE LICENSE SHOULD BE GRANTED. THE INFORMATION SHALL INCLUDE THE NAME AND ADDRESS OF THE APPLICANT, THE NAMES AND ADDRESSES OF THE OFFICERS, DIRECTORS, OR MANAGERS, AND ALL OTHER INFORMATION DEEMED NECESSARY BY THE STATE LICENSING AUTHORITY. EACH APPLICATION SHALL BE VERIFIED BY THE OATH OR AFFIRMATION OF SUCH PERSON OR PERSONS AS THE STATE LICENSING AUTHORITY MAY PRESCRIBE.

(2) THE STATE LICENSING AUTHORITY SHALL NOT ISSUE A STATE LICENSE PURSUANT TO THIS SECTION UNTIL THE LOCAL LICENSING AUTHORITY HAS APPROVED THE APPLICATION FOR A LOCAL LICENSE AND ISSUED A LOCAL LICENSE AS PROVIDED FOR IN SECTIONS 12-43.3-301 TO 12-43.3-303.

(3) NOTHING IN THIS ARTICLE SHALL PREEMPT OR OTHERWISE IMPAIR THE POWER OF A LOCAL GOVERNMENT TO ENACT ORDINANCES OR RESOLUTIONS CONCERNING MATTERS AUTHORIZED TO LOCAL GOVERNMENTS.

12-43.3-306. Denial of application. (1) THE STATE LICENSING AUTHORITY SHALL DENY A STATE LICENSE IF THE PREMISES ON WHICH THE APPLICANT PROPOSES TO CONDUCT ITS BUSINESS DO NOT MEET THE REQUIREMENTS OF THIS ARTICLE OR FOR REASONS SET FORTH IN SECTION 12-43.3-104 (1) (c) OR 12-43.3-305.

(2) IF THE STATE LICENSING AUTHORITY DENIES A STATE LICENSE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE APPLICANT SHALL BE ENTITLED TO A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. THE STATE LICENSING AUTHORITY SHALL PROVIDE WRITTEN NOTICE OF THE GROUNDS FOR DENIAL OF THE STATE LICENSE TO THE APPLICANT AND TO THE LOCAL LICENSING AUTHORITY AT LEAST

FIFTEEN DAYS PRIOR TO THE HEARING.

12-43.3-307. Persons prohibited as licensees. (1) (a) A LICENSE PROVIDED BY THIS ARTICLE SHALL NOT BE ISSUED TO OR HELD BY:

(I) A PERSON UNTIL THE ANNUAL FEE THEREFORE HAS BEEN PAID;

(II) A PERSON WHOSE CRIMINAL HISTORY INDICATES THAT HE OR SHE IS NOT OF GOOD MORAL CHARACTER;

(III) A CORPORATION, IF THE CRIMINAL HISTORY OF ANY OF ITS OFFICERS, DIRECTORS, OR STOCKHOLDERS INDICATES THAT THE OFFICER, DIRECTOR, OR STOCKHOLDER IS NOT OF GOOD MORAL CHARACTER;

(IV) A LICENSED PHYSICIAN MAKING PATIENT RECOMMENDATIONS;

(V) A PERSON EMPLOYING, ASSISTED BY, OR FINANCED IN WHOLE OR IN PART BY ANY OTHER PERSON WHOSE CRIMINAL HISTORY INDICATES HE OR SHE IS NOT OF GOOD CHARACTER AND REPUTATION SATISFACTORY TO THE RESPECTIVE LICENSING AUTHORITY;

(VI) A PERSON UNDER TWENTY-ONE YEARS OF AGE;

(VII) A PERSON LICENSED PURSUANT TO THIS ARTICLE WHO, DURING A PERIOD OF LICENSURE, OR WHO, AT THE TIME OF APPLICATION, HAS FAILED TO:

(A) PROVIDE A SURETY BOND OR FILE ANY TAX RETURN WITH A TAXING AGENCY;

(B) PAY ANY TAXES, INTEREST, OR PENALTIES DUE;

(C) PAY ANY JUDGMENTS DUE TO A GOVERNMENT AGENCY;

(D) STAY OUT OF DEFAULT ON A GOVERNMENT-ISSUED STUDENT LOAN;

(E) PAY CHILD SUPPORT; OR

(F) REMEDY AN OUTSTANDING DELINQUENCY FOR TAXES OWED, AN OUTSTANDING DELINQUENCY FOR JUDGMENTS OWED TO A GOVERNMENT AGENCY, OR AN OUTSTANDING DELINQUENCY FOR CHILD SUPPORT.

(VIII) A PERSON WHO HAS DISCHARGED A SENTENCE IN THE FIVE YEARS IMMEDIATELY PRECEDING THE APPLICATION DATE FOR A CONVICTION OF A FELONY OR A PERSON WHO AT ANY TIME HAS BEEN CONVICTED OF A FELONY PURSUANT TO ANY STATE OR FEDERAL LAW REGARDING THE POSSESSION, DISTRIBUTION, OR USE OF A CONTROLLED SUBSTANCE.

(IX) A PERSON WHO EMPLOYS ANOTHER PERSON AT A MEDICAL MARIJUANA FACILITY WHO HAS NOT PASSED A CRIMINAL HISTORY RECORD CHECK;

(X) A SHERIFF, DEPUTY SHERIFF, POLICE OFFICER, OR PROSECUTING OFFICER, OR AN OFFICER OR EMPLOYEE OF THE STATE LICENSING AUTHORITY OR A LOCAL

LICENSING AUTHORITY;

(XI) A PERSON WHOSE AUTHORITY TO BE A PRIMARY CAREGIVER AS DEFINED IN SECTION 25-1.5-106 (2) HAS BEEN REVOKED BY THE STATE HEALTH AGENCY;

(XII) A PERSON FOR A LICENSE FOR A LOCATION THAT IS CURRENTLY LICENSED AS A RETAIL FOOD ESTABLISHMENT OR WHOLESALE FOOD REGISTRANT; OR

(XIII) A PERSON WHO HAS NOT BEEN A RESIDENT OF COLORADO FOR AT LEAST TWO YEARS PRIOR TO THE DATE OF THE PERSON'S APPLICATION; EXCEPT THAT FOR A PERSON WHO SUBMITS AN APPLICATION FOR LICENSURE PURSUANT TO THIS ARTICLE BY DECEMBER 15, 2010, THIS REQUIREMENT SHALL NOT APPLY TO THAT PERSON IF THE PERSON WAS A RESIDENT OF THE STATE OF COLORADO ON DECEMBER 15, 2009.

(2) (a) IN INVESTIGATING THE QUALIFICATIONS OF AN APPLICANT OR A LICENSEE, THE STATE LICENSING AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY RESTRICTIONS IMPOSED BY SUCH AGENCY. IN THE EVENT THE STATE LICENSING AUTHORITY CONSIDERS THE APPLICANT'S CRIMINAL HISTORY RECORD, THE STATE LICENSING AUTHORITY SHALL ALSO CONSIDER ANY INFORMATION PROVIDED BY THE APPLICANT REGARDING SUCH CRIMINAL HISTORY RECORD, INCLUDING BUT NOT LIMITED TO EVIDENCE OF REHABILITATION, CHARACTER REFERENCES, AND EDUCATIONAL ACHIEVEMENTS, ESPECIALLY THOSE ITEMS PERTAINING TO THE PERIOD OF TIME BETWEEN THE APPLICANT'S LAST CRIMINAL CONVICTION AND THE CONSIDERATION OF THE APPLICATION FOR A STATE LICENSE.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (2), "CRIMINAL JUSTICE AGENCY" MEANS ANY FEDERAL, STATE, OR MUNICIPAL COURT OR ANY GOVERNMENTAL AGENCY OR SUBUNIT OF SUCH AGENCY THAT ADMINISTERS CRIMINAL JUSTICE PURSUANT TO A STATUTE OR EXECUTIVE ORDER AND THAT ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE.

(c) AT THE TIME OF FILING AN APPLICATION FOR ISSUANCE OR RENEWAL OF A STATE MEDICAL MARIJUANA CENTER LICENSE, MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER LICENSE, OR OPTIONAL PREMISES CULTIVATION LICENSE, AN APPLICANT SHALL SUBMIT A SET OF HIS OR HER FINGERPRINTS AND FILE PERSONAL HISTORY INFORMATION CONCERNING THE APPLICANT'S QUALIFICATIONS FOR A STATE LICENSE ON FORMS PREPARED BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL SUBMIT THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE STATE LICENSING AUTHORITY MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT OR A LICENSE HOLDER WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS PREVIOUSLY SUBMITTED FINGERPRINTS FOR STATE LICENSING PURPOSES MAY REQUEST THAT THE FINGERPRINTS ON FILE BE USED. THE STATE LICENSING

AUTHORITY SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO HOLD A STATE LICENSE PURSUANT TO THIS ARTICLE. THE STATE LICENSING AUTHORITY MAY VERIFY ANY OF THE INFORMATION AN APPLICANT IS REQUIRED TO SUBMIT.

12-43.3-308. Restrictions for applications for new licenses. (1) THE STATE OR A LOCAL LICENSING AUTHORITY SHALL NOT RECEIVE OR ACT UPON AN APPLICATION FOR THE ISSUANCE OF A STATE OR LOCAL LICENSE PURSUANT TO THIS ARTICLE:

(a) IF THE APPLICATION FOR A STATE OR LOCAL LICENSE CONCERNS A PARTICULAR LOCATION THAT IS THE SAME AS OR WITHIN ONE THOUSAND FEET OF A LOCATION FOR WHICH, WITHIN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, THE STATE OR A LOCAL LICENSING AUTHORITY DENIED AN APPLICATION FOR THE SAME CLASS OF LICENSE DUE TO THE NATURE OF THE USE OR OTHER CONCERN RELATED TO THE LOCATION;

(b) UNTIL IT IS ESTABLISHED THAT THE APPLICANT IS, OR WILL BE, ENTITLED TO POSSESSION OF THE PREMISES FOR WHICH APPLICATION IS MADE UNDER A LEASE, RENTAL AGREEMENT, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES OR BY VIRTUE OF OWNERSHIP OF THE PREMISES;

(c) FOR A LOCATION IN AN AREA WHERE THE CULTIVATION, MANUFACTURE, AND SALE OF MEDICAL MARIJUANA AS CONTEMPLATED IS NOT PERMITTED UNDER THE APPLICABLE ZONING LAWS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY;

(d) (I) IF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD IS LOCATED WITHIN ONE THOUSAND FEET OF A SCHOOL, AN ALCOHOL OR DRUG TREATMENT FACILITY, OR THE PRINCIPAL CAMPUS OF A COLLEGE, UNIVERSITY, OR SEMINARY, OR A RESIDENTIAL CHILD CARE FACILITY. THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT THE RENEWAL OR RE-ISSUANCE OF A LICENSE ONCE GRANTED OR APPLY TO LICENSED PREMISES LOCATED OR TO BE LOCATED ON LAND OWNED BY A MUNICIPALITY, NOR SHALL THE PROVISIONS OF THIS SECTION APPLY TO AN EXISTING LICENSED PREMISES ON LAND OWNED BY THE STATE, OR APPLY TO A LICENSE IN EFFECT AND ACTIVELY DOING BUSINESS BEFORE SAID PRINCIPAL CAMPUS WAS CONSTRUCTED. THE LOCAL LICENSING AUTHORITY OF A CITY AND COUNTY, BY RULE OR REGULATION, THE GOVERNING BODY OF A MUNICIPALITY, BY ORDINANCE, AND THE GOVERNING BODY OF A COUNTY, BY RESOLUTION, MAY VARY THE DISTANCE RESTRICTIONS IMPOSED BY THIS SUBPARAGRAPH (I) FOR A LICENSE OR MAY ELIMINATE ONE OR MORE TYPES OF SCHOOLS, CAMPUSES, OR FACILITIES FROM THE APPLICATION OF A DISTANCE RESTRICTION ESTABLISHED BY OR PURSUANT TO THIS SUBPARAGRAPH (I).

(II) THE DISTANCES REFERRED TO IN THIS PARAGRAPH (d) ARE TO BE COMPUTED BY DIRECT MEASUREMENT FROM THE NEAREST PROPERTY LINE OF THE LAND USED FOR A SCHOOL OR CAMPUS TO THE NEAREST PORTION OF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

(III) IN ADDITION TO THE REQUIREMENTS OF SECTION 12-43.3-303 (2), THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE EVIDENCE AND MAKE A SPECIFIC FINDING OF FACT AS TO WHETHER THE BUILDING IN WHICH THE MEDICAL MARIJUANA

IS TO BE SOLD IS LOCATED WITHIN ANY DISTANCE RESTRICTIONS ESTABLISHED BY OR PURSUANT TO THIS PARAGRAPH (d).

12-43.3-309. Transfer of ownership. (1) A STATE OR LOCAL LICENSE GRANTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT BE TRANSFERABLE EXCEPT AS PROVIDED IN THIS SECTION, BUT THIS SECTION SHALL NOT PREVENT A CHANGE OF LOCATION AS PROVIDED IN SECTION 12-43.3-310 (13).

(2) FOR A TRANSFER OF OWNERSHIP, A LICENSE HOLDER SHALL APPLY TO THE STATE AND LOCAL LICENSING AUTHORITIES ON FORMS PREPARED AND FURNISHED BY THE STATE LICENSING AUTHORITY. IN DETERMINING WHETHER TO PERMIT A TRANSFER OF OWNERSHIP, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL CONSIDER ONLY THE REQUIREMENTS OF THIS ARTICLE, ANY RULES PROMULGATED BY THE STATE LICENSING AUTHORITY, AND ANY OTHER LOCAL RESTRICTIONS. THE LOCAL LICENSING AUTHORITY MAY HOLD A HEARING ON THE APPLICATION FOR TRANSFER OF OWNERSHIP. THE LOCAL LICENSING AUTHORITY SHALL NOT HOLD A HEARING PURSUANT TO THIS SUBSECTION (2) UNTIL THE LOCAL LICENSING AUTHORITY HAS POSTED A NOTICE OF HEARING IN THE MANNER DESCRIBED IN SECTION 12-43.3-302 (2) ON THE LICENSED MEDICAL MARIJUANA CENTER PREMISES FOR A PERIOD OF TEN DAYS AND HAS PROVIDED NOTICE OF THE HEARING TO THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. ANY TRANSFER OF OWNERSHIP HEARING BY THE STATE LICENSING AUTHORITY SHALL BE HELD IN COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN SECTION 12-43.3-302.

12-43.3-310. Licensing in general. (1) THIS ARTICLE AUTHORIZES A COUNTY, MUNICIPALITY, OR CITY AND COUNTY TO PROHIBIT THE OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES AND TO ENACT REASONABLE REGULATIONS OR OTHER RESTRICTIONS APPLICABLE TO MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION LICENSES, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES BASED ON LOCAL GOVERNMENT ZONING, HEALTH, SAFETY, AND PUBLIC WELFARE LAWS FOR THE DISTRIBUTION OF MEDICAL MARIJUANA THAT ARE MORE RESTRICTIVE THAN THIS ARTICLE.

(2) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY NOT OPERATE UNTIL IT HAS BEEN LICENSED BY THE LOCAL LICENSING AUTHORITY AND THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE. IN CONNECTION WITH A LICENSE, THE APPLICANT SHALL PROVIDE A COMPLETE AND ACCURATE LIST OF ALL OWNERS, OFFICERS, AND EMPLOYEES WHO WORK AT, MANAGE, OWN, OR ARE OTHERWISE ASSOCIATED WITH THE OPERATION AND SHALL PROVIDE A COMPLETE AND ACCURATE APPLICATION AS REQUIRED BY THE STATE LICENSING AUTHORITY.

(3) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOTIFY THE STATE LICENSING AUTHORITY IN WRITING WITHIN TEN DAYS AFTER AN OWNER, OFFICER, OR EMPLOYEE CEASES TO WORK AT, MANAGE, OWN, OR OTHERWISE BE ASSOCIATED WITH THE OPERATION. THE OWNER, OFFICER, OR EMPLOYEE SHALL SURRENDER HIS OR HER IDENTIFICATION CARD TO THE STATE LICENSING AUTHORITY ON OR BEFORE THE DATE OF THE NOTIFICATION.

(4) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOTIFY THE STATE LICENSING AUTHORITY IN WRITING OF THE NAME, ADDRESS, AND DATE OF BIRTH OF AN OWNER, OFFICER, MANAGER, OR EMPLOYEE BEFORE THE NEW OWNER, OFFICER, OR EMPLOYEE BEGINS WORKING AT, MANAGING, OWNING, OR BEING ASSOCIATED WITH THE OPERATION. THE OWNER, OFFICER, MANAGER, OR EMPLOYEE SHALL PASS A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS REQUIRED BY THE STATE LICENSING AUTHORITY AND OBTAIN THE REQUIRED IDENTIFICATION PRIOR TO BEING ASSOCIATED WITH, MANAGING, OWNING, OR WORKING AT THE OPERATION.

(5) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOT ACQUIRE, POSSESS, CULTIVATE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, OR DISPENSE MARIJUANA FOR ANY PURPOSE EXCEPT TO ASSIST PATIENTS, AS DEFINED BY SECTION 14(1) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(6) ALL OWNERS, OFFICERS, MANAGERS, AND EMPLOYEES OF A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL BE RESIDENTS OF COLORADO. A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LICENSE PROVIDED FOR IN THIS ARTICLE UNTIL THAT SHARE OF THE LICENSE APPLICATION FEE DUE TO THE STATE HAS BEEN RECEIVED BY THE DEPARTMENT OF REVENUE. ALL LICENSES GRANTED PURSUANT TO THIS ARTICLE SHALL BE VALID FOR A PERIOD NOT TO EXCEED TWO YEARS FROM THE DATE OF ISSUANCE UNLESS REVOKED OR SUSPENDED PURSUANT TO THIS ARTICLE OR THE RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(7) BEFORE GRANTING A LOCAL OR STATE LICENSE, THE RESPECTIVE LICENSING AUTHORITY MAY CONSIDER, EXCEPT WHERE THIS ARTICLE SPECIFICALLY PROVIDES OTHERWISE, THE REQUIREMENTS OF THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE, AND ALL OTHER REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE LICENSEE BY THE LICENSING AUTHORITY. WITH RESPECT TO A SECOND OR ADDITIONAL LICENSE FOR THE SAME LICENSEE OR THE SAME OWNER OF ANOTHER LICENSED BUSINESS PURSUANT TO THIS ARTICLE, EACH LICENSING AUTHORITY SHALL CONSIDER THE EFFECT ON COMPETITION OF GRANTING OR DENYING THE ADDITIONAL LICENSES TO SUCH LICENSEE AND SHALL NOT APPROVE AN APPLICATION FOR A SECOND OR ADDITIONAL LICENSE THAT WOULD HAVE THE EFFECT OF RESTRAINING COMPETITION.

(8) (a) EACH LICENSE ISSUED UNDER THIS ARTICLE IS SEPARATE AND DISTINCT. IT IS UNLAWFUL FOR A PERSON TO EXERCISE ANY OF THE PRIVILEGES GRANTED UNDER A LICENSE OTHER THAN THE LICENSE THAT THE PERSON HOLDS OR FOR A LICENSEE TO ALLOW ANY OTHER PERSON TO EXERCISE THE PRIVILEGES GRANTED UNDER THE LICENSEE'S LICENSE. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH SPECIFIC BUSINESS OR BUSINESS ENTITY AND EACH GEOGRAPHICAL LOCATION.

(b) AT ALL TIMES, A LICENSEE SHALL POSSESS AND MAINTAIN POSSESSION OF THE PREMISES OR OPTIONAL PREMISES FOR WHICH THE LICENSE IS ISSUED BY OWNERSHIP, LEASE, RENTAL, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES.

(9) (a) THE LICENSES PROVIDED PURSUANT TO THIS ARTICLE SHALL SPECIFY THE DATE OF ISSUANCE, THE PERIOD OF LICENSURE, THE NAME OF THE LICENSEE, AND THE PREMISES OR OPTIONAL PREMISES LICENSED. THE LICENSEE SHALL CONSPICUOUSLY PLACE THE LICENSE AT ALL TIMES ON THE LICENSED PREMISES OR OPTIONAL PREMISES.

(b) A LOCAL LICENSING AUTHORITY SHALL NOT TRANSFER LOCATION OF OR RENEW A LICENSE TO SELL MEDICAL MARIJUANA UNTIL THE APPLICANT FOR THE LICENSE PRODUCES A LICENSE ISSUED AND GRANTED BY THE STATE LICENSING AUTHORITY COVERING THE WHOLE PERIOD FOR WHICH A LICENSE OR LICENSE RENEWAL IS SOUGHT.

(10) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS ARTICLE, THE DAY OF THE ACT, EVENT, OR DEFAULT FROM WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN SHALL NOT BE INCLUDED. SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS SHALL BE COUNTED AS ANY OTHER DAY.

(11) A LICENSEE SHALL REPORT EACH TRANSFER OR CHANGE OF FINANCIAL INTEREST IN THE LICENSE TO THE STATE AND LOCAL LICENSING AUTHORITIES, THIRTY DAYS PRIOR TO ANY TRANSFER OR CHANGE PURSUANT TO SECTION 12-43.3-309. A REPORT SHALL BE REQUIRED FOR TRANSFERS OF CAPITAL STOCK OF ANY CORPORATION REGARDLESS OF SIZE.

(12) EACH LICENSEE SHALL MANAGE THE LICENSED PREMISES HIMSELF OR HERSELF OR EMPLOY A SEPARATE AND DISTINCT MANAGER ON THE PREMISES AND SHALL REPORT THE NAME OF THE MANAGER TO THE STATE AND LOCAL LICENSING AUTHORITIES. THE LICENSEE SHALL REPORT ANY CHANGE IN MANAGER TO THE STATE AND LOCAL LICENSING AUTHORITIES THIRTY DAYS PRIOR TO THE CHANGE PURSUANT TO SECTION 12-43.3-309.

(13) (a) A LICENSEE MAY MOVE HIS OR HER PERMANENT LOCATION TO ANY OTHER PLACE IN THE SAME MUNICIPALITY OR CITY AND COUNTY FOR WHICH THE LICENSE WAS ORIGINALLY GRANTED, OR IN THE SAME COUNTY IF THE LICENSE WAS GRANTED FOR A PLACE OUTSIDE THE CORPORATE LIMITS OF A MUNICIPALITY OR CITY AND COUNTY, BUT IT SHALL BE UNLAWFUL TO CULTIVATE, MANUFACTURE, DISTRIBUTE OR SELL MEDICAL MARIJUANA AT ANY SUCH PLACE UNTIL PERMISSION TO DO SO IS GRANTED BY THE STATE AND LOCAL LICENSING AUTHORITIES PROVIDED FOR IN THIS ARTICLE.

(b) IN PERMITTING A CHANGE OF LOCATION, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL CONSIDER ALL REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE NEW LOCATION BY THE GOVERNING BOARD OR LOCAL LICENSING AUTHORITY OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY AND ANY SUCH CHANGE IN LOCATION SHALL BE IN ACCORDANCE WITH ALL REQUIREMENTS OF THIS ARTICLE AND RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(14) THE LOCATION OF AN OPTIONAL PREMISES CULTIVATION OPERATION AS DESCRIBED IN SECTION 12-43.3-403 SHALL BE A CONFIDENTIAL RECORD AND SHALL BE EXEMPT FROM THE COLORADO OPEN RECORDS ACT. STATE AND LOCAL LICENSING AUTHORITIES SHALL KEEP THE LOCATION OF AN OPTIONAL PREMISES

CULTIVATION OPERATION CONFIDENTIAL AND SHALL REDACT THE LOCATION FROM ALL PUBLIC RECORDS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A STATE OR LOCAL LICENSING AGENCY MAY SHARE INFORMATION REGARDING THE LOCATION OF AN OPTIONAL PREMISES CULTIVATION OPERATION WITH A PEACE OFFICER OR A LAW ENFORCEMENT AGENCY.

12-43.3-311. License renewal. (1) NINETY DAYS PRIOR TO THE EXPIRATION DATE OF AN EXISTING LICENSE, THE STATE LICENSING AUTHORITY SHALL NOTIFY THE LICENSEE OF THE EXPIRATION DATE BY FIRST CLASS MAIL AT THE LICENSEE'S ADDRESS OF RECORD WITH THE STATE LICENSING AUTHORITY. A LICENSEE SHALL APPLY FOR THE RENEWAL OF AN EXISTING LICENSE TO THE LOCAL LICENSING AUTHORITY NOT LESS THAN FORTY-FIVE DAYS AND TO THE STATE LICENSING AUTHORITY NOT LESS THAN THIRTY DAYS PRIOR TO THE DATE OF EXPIRATION. A LOCAL LICENSING AUTHORITY SHALL NOT ACCEPT AN APPLICATION FOR RENEWAL OF A LICENSE AFTER THE DATE OF EXPIRATION, EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION. THE STATE LICENSING AUTHORITY MAY EXTEND THE EXPIRATION DATE OF THE LICENSE AND ACCEPT A LATE APPLICATION FOR RENEWAL OF A LICENSE PROVIDED THAT THE APPLICANT HAS FILED A TIMELY RENEWAL APPLICATION WITH THE LOCAL LICENSING AUTHORITY. ALL RENEWALS FILED WITH THE LOCAL LICENSING AUTHORITY AND SUBSEQUENTLY APPROVED BY THE LOCAL LICENSING AUTHORITY SHALL NEXT BE PROCESSED BY THE STATE LICENSING AUTHORITY. THE STATE OR THE LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (1) AND SUBSECTION (2) OF THIS SECTION AND BASED UPON REASONABLE GROUNDS, MAY WAIVE THE FORTY-FIVE-DAY OR THIRTY-DAY TIME REQUIREMENTS SET FORTH IN THIS SUBSECTION (1). THE LOCAL LICENSING AUTHORITY MAY HOLD A HEARING ON THE APPLICATION FOR RENEWAL ONLY IF THE LICENSEE HAS HAD COMPLAINTS FILED AGAINST IT, HAS A HISTORY OF VIOLATIONS, OR THERE ARE ALLEGATIONS AGAINST THE LICENSEE THAT WOULD CONSTITUTE GOOD CAUSE. THE LOCAL LICENSING AUTHORITY SHALL NOT HOLD A RENEWAL HEARING PROVIDED FOR BY THIS SUBSECTION (1) FOR A MEDICAL MARIJUANA CENTER UNTIL IT HAS POSTED A NOTICE OF HEARING ON THE LICENSED MEDICAL MARIJUANA CENTER PREMISES IN THE MANNER DESCRIBED IN SECTION 12-43.3-302 (2) FOR A PERIOD OF TEN DAYS AND PROVIDED NOTICE TO THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. THE LOCAL LICENSING AUTHORITY MAY REFUSE TO RENEW ANY LICENSE FOR GOOD CAUSE, SUBJECT TO JUDICIAL REVIEW.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, A LICENSEE WHOSE LICENSE HAS BEEN EXPIRED FOR NOT MORE THAN NINETY DAYS MAY FILE A LATE RENEWAL APPLICATION UPON THE PAYMENT OF A NONREFUNDABLE LATE APPLICATION FEE OF FIVE HUNDRED DOLLARS TO THE LOCAL LICENSING AUTHORITY. A LICENSEE WHO FILES A LATE RENEWAL APPLICATION AND PAYS THE REQUISITE FEES MAY CONTINUE TO OPERATE UNTIL BOTH THE STATE AND LOCAL LICENSING AUTHORITIES HAVE TAKEN FINAL ACTION TO APPROVE OR DENY THE LICENSEE'S LATE RENEWAL APPLICATION UNLESS THE STATE OR LOCAL LICENSING AUTHORITY SUMMARILY SUSPENDS THE LICENSE PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., THIS ARTICLE, AND RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(b) THE STATE AND LOCAL LICENSING AUTHORITIES MAY NOT ACCEPT A LATE RENEWAL APPLICATION MORE THAN NINETY DAYS AFTER THE EXPIRATION OF A LICENSEE'S PERMANENT ANNUAL LICENSE. A LICENSEE WHOSE PERMANENT ANNUAL

LICENSE HAS BEEN EXPIRED FOR MORE THAN NINETY DAYS SHALL NOT CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL ANY MEDICAL MARIJUANA UNTIL ALL REQUIRED LICENSES HAVE BEEN OBTAINED.

(c) NOTWITHSTANDING THE AMOUNT SPECIFIED FOR THE LATE APPLICATION FEE IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE STATE LICENSING AUTHORITY BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF THE FEE IF NECESSARY PURSUANT TO SECTION 24-75-402 (3), C.R.S., BY REDUCING THE UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF THE FEE IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND ARE SUFFICIENTLY REDUCED, THE STATE LICENSING AUTHORITY BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF THE FEE AS PROVIDED IN SECTION 24-75-402 (4), C.R.S.

12-43.3-312. Inactive licenses. THE STATE OR LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, MAY REVOKE OR ELECT NOT TO RENEW ANY LICENSE IF IT DETERMINES THAT THE LICENSED PREMISES HAVE BEEN INACTIVE, WITHOUT GOOD CAUSE, FOR AT LEAST ONE YEAR.

12-43.3-313. Unlawful financial assistance. (1) THE STATE LICENSING AUTHORITY, BY RULE AND REGULATION, SHALL REQUIRE A COMPLETE DISCLOSURE OF ALL PERSONS HAVING A DIRECT OR INDIRECT FINANCIAL INTEREST, AND THE EXTENT OF SUCH INTEREST, IN EACH LICENSE ISSUED UNDER THIS ARTICLE.

(2) A PERSON SHALL NOT HAVE AN UNREPORTED FINANCIAL INTEREST IN A LICENSE PURSUANT TO THIS ARTICLE UNLESS THAT PERSON HAS UNDERGONE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS PROVIDED FOR BY THE STATE LICENSING AUTHORITY IN ITS RULES; EXCEPT THAT THIS SUBSECTION (2) SHALL NOT APPLY TO BANKS, SAVINGS AND LOAN ASSOCIATIONS, OR INDUSTRIAL BANKS SUPERVISED AND REGULATED BY AN AGENCY OF THE STATE OR FEDERAL GOVERNMENT, OR TO FHA-APPROVED MORTGAGEES, OR TO STOCKHOLDERS, DIRECTORS, OR OFFICERS THEREOF.

(3) THIS SECTION IS INTENDED TO PROHIBIT AND PREVENT THE CONTROL OF THE OUTLETS FOR THE SALE OF MEDICAL MARIJUANA BY A PERSON OR PARTY OTHER THAN THE PERSONS LICENSED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

PART 4
LICENSE TYPES

12-43.3-401. Classes of licenses. (1) FOR THE PURPOSE OF REGULATING THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA, THE STATE LICENSING AUTHORITY IN ITS DISCRETION, UPON APPLICATION IN THE PRESCRIBED FORM MADE TO IT, MAY ISSUE AND GRANT TO THE APPLICANT A LICENSE FROM ANY OF THE FOLLOWING CLASSES, SUBJECT TO THE PROVISIONS AND RESTRICTIONS PROVIDED BY THIS ARTICLE:

(a) MEDICAL MARIJUANA CENTER LICENSE;

(b) OPTIONAL PREMISES CULTIVATION LICENSE;

(c) MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE; AND

(d) OCCUPATIONAL LICENSES AND REGISTRATIONS FOR OWNERS, MANAGERS, OPERATORS, EMPLOYEES, CONTRACTORS, AND OTHER SUPPORT STAFF EMPLOYED BY, WORKING IN, OR HAVING ACCESS TO RESTRICTED AREAS OF THE LICENSED PREMISES, AS DETERMINED BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION PURSUANT TO THIS ARTICLE AS IT MAY WITH RESPECT TO A LICENSE PURSUANT TO THIS ARTICLE, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE.

(2) ALL PERSONS LICENSED PURSUANT TO THIS ARTICLE SHALL COLLECT SALES TAX ON ALL SALES MADE PURSUANT TO THE LICENSING ACTIVITIES.

(3) A STATE CHARTERED BANK OR A CREDIT UNION MAY LOAN MONEY TO ANY PERSON LICENSED PURSUANT TO THIS ARTICLE FOR THE OPERATION OF A LICENSED BUSINESS.

12-43.3-402. Medical marijuana center license. (1) A MEDICAL MARIJUANA CENTER LICENSE SHALL BE ISSUED ONLY TO A PERSON SELLING MEDICAL MARIJUANA PURSUANT TO THE TERMS AND CONDITIONS OF THIS ARTICLE.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A MEDICAL MARIJUANA CENTER LICENSEE MAY ALSO SELL MEDICAL MARIJUANA-INFUSED PRODUCTS THAT ARE PREPACKAGED AND LABELED SO AS TO CLEARLY INDICATE ALL OF THE FOLLOWING:

(I) THAT THE PRODUCT CONTAINS MEDICAL MARIJUANA;

(II) THAT THE PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY; AND

(III) THAT THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OR USE OF THE PRODUCT.

(b) A MEDICAL MARIJUANA LICENSEE MAY CONTRACT WITH A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE FOR THE MANUFACTURE OF MEDICAL MARIJUANA-INFUSED PRODUCTS UPON A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE'S LICENSED PREMISES.

(3) EVERY PERSON SELLING MEDICAL MARIJUANA AS PROVIDED FOR IN THIS ARTICLE SHALL SELL ONLY MEDICAL MARIJUANA GROWN IN ITS MEDICAL MARIJUANA OPTIONAL PREMISES LICENSED PURSUANT TO THIS ARTICLE. THE PROVISIONS OF THIS SUBSECTION (3) SHALL NOT APPLY TO MEDICAL MARIJUANA-INFUSED PRODUCTS.

(4) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION TO THE CONTRARY, A MEDICAL MARIJUANA LICENSEE MAY PURCHASE NOT MORE THAN THIRTY PERCENT OF ITS TOTAL ON-HAND INVENTORY OF MEDICAL MARIJUANA FROM ANOTHER LICENSED MEDICAL MARIJUANA CENTER IN COLORADO. A MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN THIRTY PERCENT OF ITS TOTAL ON-HAND INVENTORY TO ANOTHER COLORADO LICENSED MEDICAL MARIJUANA LICENSEE.

(5) PRIOR TO INITIATING A SALE, THE EMPLOYEE OF THE MEDICAL MARIJUANA CENTER MAKING THE SALE SHALL VERIFY THAT THE PURCHASER HAS A VALID REGISTRATION CARD ISSUED PURSUANT TO SECTION 25-1.5-106, C.R.S., AND A VALID PICTURE IDENTIFICATION CARD THAT MATCHES THE NAME ON THE REGISTRATION CARD.

(6) A LICENSED MEDICAL MARIJUANA CENTER MAY PROVIDE A SMALL AMOUNT OF ITS MEDICAL MARIJUANA FOR TESTING TO A LABORATORY THAT IS LICENSED PURSUANT TO THE OCCUPATIONAL LICENSING RULES PROMULGATED PURSUANT TO SECTION 12-43.3-202 (2) (a) (IV).

(7) ALL MEDICAL MARIJUANA SOLD AT A LICENSED MEDICAL MARIJUANA CENTER SHALL BE LABELED WITH A LIST OF ALL CHEMICAL ADDITIVES, INCLUDING BUT NOT LIMITED TO NONORGANIC PESTICIDES, HERBICIDES, AND FERTILIZERS, THAT WERE USED IN THE CULTIVATION AND THE PRODUCTION OF THE MEDICAL MARIJUANA.

(8) A LICENSED MEDICAL MARIJUANA CENTER SHALL COMPLY WITH ALL PROVISIONS OF ARTICLE 34 OF TITLE 24, C.R.S., AS THE PROVISIONS RELATE TO PERSONS WITH DISABILITIES.

12-43.3-403. Optional premises cultivation license. AN OPTIONAL PREMISES CULTIVATION LICENSE MAY BE ISSUED ONLY TO A PERSON LICENSED PURSUANT TO SECTION 12-43.3-402 (1) OR 12-43.3-404 (1) WHO GROWS AND CULTIVATES MEDICAL MARIJUANA AT AN ADDITIONAL COLORADO LICENSED PREMISES CONTIGUOUS OR NOT CONTIGUOUS WITH THE LICENSED PREMISES OF THE PERSON'S MEDICAL MARIJUANA CENTER LICENSE OR THE PERSON'S MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE.

12-43.3-404. Medical marijuana-infused products manufacturing license. (1) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE MAY BE ISSUED TO A PERSON WHO MANUFACTURES MEDICAL MARIJUANA-INFUSED PRODUCTS, PURSUANT TO THE TERMS AND CONDITIONS OF THIS ARTICLE.

(2) MEDICAL MARIJUANA-INFUSED PRODUCTS SHALL BE PREPARED ON A LICENSED PREMISES THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS AND USING EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS.

(3) A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE SHALL HAVE A WRITTEN AGREEMENT OR CONTRACT WITH A MEDICAL MARIJUANA CENTER LICENSEE, WHICH CONTRACT SHALL AT A MINIMUM SET FORTH THE TOTAL AMOUNT OF MEDICAL MARIJUANA OBTAINED FROM A MEDICAL MARIJUANA CENTER LICENSEE TO BE USED IN THE MANUFACTURING PROCESS, AND THE TOTAL AMOUNT OF MEDICAL MARIJUANA-INFUSED PRODUCTS TO BE MANUFACTURED FROM THE MEDICAL MARIJUANA OBTAINED FROM THE MEDICAL MARIJUANA CENTER. A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE SHALL NOT USE MEDICAL MARIJUANA FROM MORE THAN FIVE DIFFERENT MEDICAL MARIJUANA CENTERS IN THE PRODUCTION OF ONE MEDICAL MARIJUANA-INFUSED PRODUCT. THE MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE MAY SELL ITS PRODUCTS TO ANY LICENSED MEDICAL MARIJUANA CENTER.

(4) ALL LICENSED PREMISES ON WHICH MEDICAL MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED SHALL MEET THE SANITARY STANDARDS FOR MEDICAL MARIJUANA-INFUSED PRODUCT PREPARATION PROMULGATED PURSUANT TO SECTION 12-43.3-202 (2) (a) (XII).

(5) THE MEDICAL MARIJUANA-INFUSED PRODUCT SHALL BE SEALED AND CONSPICUOUSLY LABELED IN COMPLIANCE WITH THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(6) MEDICAL MARIJUANA-INFUSED PRODUCTS MAY NOT BE CONSUMED ON A PREMISES LICENSED PURSUANT TO THIS ARTICLE.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, SALES OF MEDICAL MARIJUANA-INFUSED PRODUCTS SHALL NOT BE EXEMPT FROM STATE OR LOCAL SALES TAX.

(8) A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE THAT HAS AN OPTIONAL PREMISES CULTIVATION LICENSE SHALL NOT SELL ANY OF THE MEDICAL MARIJUANA THAT IT CULTIVATES.

PART 5
FEES

12-43.3-501. Medical marijuana license cash fund. (1) ALL MONEYS COLLECTED BY THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE MEDICAL MARIJUANA LICENSE CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF REVENUE FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF ONE OR MORE OF THE FEES IF NECESSARY PURSUANT TO SECTION 24-75-402 (3), C.R.S., TO REDUCE THE UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF ONE OR MORE OF THE FEES IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND ARE SUFFICIENTLY REDUCED, THE EXECUTIVE DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF ONE OR MORE OF THE FEES AS PROVIDED IN SECTION 24-75-402 (4), C.R.S.

(3) (a) THE STATE LICENSING AUTHORITY SHALL ESTABLISH FEES FOR PROCESSING THE FOLLOWING TYPES OF APPLICATIONS, LICENSES, NOTICES, OR REPORTS REQUIRED TO BE SUBMITTED TO THE STATE LICENSING AUTHORITY:

(I) APPLICATIONS FOR LICENSES LISTED IN SECTION 12-43.3-401 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(II) APPLICATIONS TO CHANGE LOCATION PURSUANT TO SECTION 12-43.3-310 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(III) APPLICATIONS FOR TRANSFER OF OWNERSHIP PURSUANT TO SECTION 12-43.3-310 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(IV) LICENSE RENEWAL AND EXPIRED LICENSE RENEWAL APPLICATIONS PURSUANT TO SECTION 12-43.3-311; AND

(V) LICENSES AS LISTED IN SECTION 12-43.3-401.

(b) THE AMOUNTS OF SUCH FEES, WHEN ADDED TO THE OTHER FEES TRANSFERRED TO THE FUND PURSUANT TO THIS SECTION SHALL REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE SO THAT THE FEES AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-402 (3), C.R.S.

(c) THE STATE LICENSING AUTHORITY MAY CHARGE APPLICANTS LICENSED UNDER THIS ARTICLE A FEE FOR THE COST OF EACH FINGERPRINT ANALYSIS AND BACKGROUND INVESTIGATION UNDERTAKEN TO QUALIFY NEW OFFICERS, DIRECTORS, MANAGERS, OR EMPLOYEES.

(d) AT LEAST ANNUALLY, THE STATE LICENSING AUTHORITY SHALL REVIEW THE AMOUNTS OF THE FEES AND, IF NECESSARY, ADJUST THE AMOUNTS TO REFLECT THE DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY.

(3) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE STATE LICENSING AUTHORITY SHALL ESTABLISH A BASIC FEE THAT SHALL BE PAID AT THE TIME OF SERVICE OF ANY SUBPOENA UPON THE STATE LICENSING AUTHORITY, PLUS A FEE FOR MEALS AND A FEE FOR MILEAGE AT THE RATE PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104, C.R.S., FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE STATE LICENSING AUTHORITY FOR EACH DAY OF ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

(4) THE SUBPOENA FEE ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL NOT BE APPLICABLE TO ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY.

12-43.3-502. Fees - allocation. (1) EXCEPT AS OTHERWISE PROVIDED, ALL FEES AND FINES PROVIDED FOR BY THIS ARTICLE SHALL BE PAID TO THE DEPARTMENT OF REVENUE, WHICH SHALL TRANSMIT THE FEES TO THE STATE TREASURER. THE STATE TREASURER SHALL CREDIT THE FEES TO THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

(2) THE EXPENDITURES OF THE STATE LICENSING AUTHORITY SHALL BE PAID OUT OF APPROPRIATIONS FROM MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

12-43.3-503. Local license fees. (1) EACH APPLICATION FOR A LOCAL LICENSE PROVIDED FOR IN THIS ARTICLE FILED WITH A LOCAL LICENSING AUTHORITY SHALL BE ACCOMPANIED BY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE LOCAL LICENSING AUTHORITY.

(2) LICENSE FEES AS DETERMINED BY THE LOCAL LICENSING AUTHORITY SHALL BE PAID TO THE TREASURER OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE LICENSED PREMISES IS LOCATED IN ADVANCE OF THE APPROVAL, DENIAL, OR RENEWAL OF THE LICENSE.

PART 6
DISCIPLINARY ACTIONS

12-43.3-601. Suspension - revocation - fines. (1) IN ADDITION TO ANY OTHER SANCTIONS PRESCRIBED BY THIS ARTICLE OR RULES PROMULGATED PURSUANT TO THIS ARTICLE, THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY HAS THE POWER, ON ITS OWN MOTION OR ON COMPLAINT, AFTER INVESTIGATION AND OPPORTUNITY FOR A PUBLIC HEARING AT WHICH THE LICENSEE SHALL BE AFFORDED AN OPPORTUNITY TO BE HEARD, TO SUSPEND OR REVOKE A LICENSE ISSUED BY THE RESPECTIVE AUTHORITY FOR A VIOLATION BY THE LICENSEE OR BY ANY OF THE AGENTS OR EMPLOYEES OF THE LICENSEE OF THE PROVISIONS OF THIS ARTICLE, OR ANY OF THE RULES PROMULGATED PURSUANT TO THIS ARTICLE, OR OF ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE STATE OR LOCAL LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY HAS THE POWER TO ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF A HEARING THAT THE STATE OR LOCAL LICENSING AUTHORITY IS AUTHORIZED TO CONDUCT.

(2) THE STATE OR LOCAL LICENSING AUTHORITY SHALL PROVIDE NOTICE OF SUSPENSION, REVOCATION, FINE, OR OTHER SANCTION, AS WELL AS THE REQUIRED NOTICE OF THE HEARING PURSUANT TO SUBSECTION (1) OF THIS SECTION, BY MAILING THE SAME IN WRITING TO THE LICENSEE AT THE ADDRESS CONTAINED IN THE LICENSE. EXCEPT IN THE CASE OF A SUMMARY SUSPENSION, A SUSPENSION SHALL NOT BE FOR A LONGER PERIOD THAN SIX MONTHS. IF A LICENSE IS SUSPENDED OR REVOKED, A PART OF THE FEES PAID THEREFORE SHALL NOT BE RETURNED TO THE LICENSEE. ANY LICENSE OR PERMIT MAY BE SUMMARILY SUSPENDED BY THE ISSUING LICENSING AUTHORITY WITHOUT NOTICE PENDING ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING PURSUANT TO THE TERMS OF SECTION 24-4-104 (4), C.R.S. NOTHING IN THIS SECTION SHALL PREVENT THE SUMMARY SUSPENSION OF A LICENSE PURSUANT TO SECTION 24-4-104 (4), C.R.S. EACH PATIENT REGISTERED WITH A MEDICAL MARIJUANA CENTER THAT HAS HAD ITS LICENSE SUMMARILY SUSPENDED MAY IMMEDIATELY TRANSFER HIS OR HER PRIMARY CENTER TO ANOTHER LICENSED MEDICAL MARIJUANA CENTER.

(3) (a) WHENEVER A DECISION OF THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY SUSPENDING A LICENSE FOR FOURTEEN DAYS OR LESS

BECOMES FINAL, THE LICENSEE MAY, BEFORE THE OPERATIVE DATE OF THE SUSPENSION, PETITION FOR PERMISSION TO PAY A FINE IN LIEU OF HAVING THE LICENSE SUSPENDED FOR ALL OR PART OF THE SUSPENSION PERIOD. UPON THE RECEIPT OF THE PETITION, THE STATE OR LOCAL LICENSING AUTHORITY MAY, IN ITS SOLE DISCRETION, STAY THE PROPOSED SUSPENSION AND CAUSE ANY INVESTIGATION TO BE MADE WHICH IT DEEMS DESIRABLE AND MAY, IN ITS SOLE DISCRETION, GRANT THE PETITION IF THE STATE OR LOCAL LICENSING AUTHORITY IS SATISFIED THAT:

(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE IMPAIRED BY PERMITTING THE LICENSEE TO OPERATE DURING THE PERIOD SET FOR SUSPENSION AND THAT THE PAYMENT OF THE FINE WILL ACHIEVE THE DESIRED DISCIPLINARY PURPOSES;

(II) THE BOOKS AND RECORDS OF THE LICENSEE ARE KEPT IN SUCH A MANNER THAT THE LOSS OF SALES THAT THE LICENSEE WOULD HAVE SUFFERED HAD THE SUSPENSION GONE INTO EFFECT CAN BE DETERMINED WITH REASONABLE ACCURACY; AND

(III) THE LICENSEE HAS NOT HAD HIS OR HER LICENSE SUSPENDED OR REVOKED, NOR HAD ANY SUSPENSION STAYED BY PAYMENT OF A FINE, DURING THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE MOTION OR COMPLAINT THAT RESULTED IN A FINAL DECISION TO SUSPEND THE LICENSE OR PERMIT.

(b) THE FINE ACCEPTED SHALL BE NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE HUNDRED THOUSAND DOLLARS.

(c) PAYMENT OF A FINE PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3) SHALL BE IN THE FORM OF CASH OR IN THE FORM OF A CERTIFIED CHECK OR CASHIER'S CHECK MADE PAYABLE TO THE STATE OR LOCAL LICENSING AUTHORITY, WHICHEVER IS APPROPRIATE.

(4) UPON PAYMENT OF THE FINE PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE STATE OR LOCAL LICENSING AUTHORITY SHALL ENTER ITS FURTHER ORDER PERMANENTLY STAYING THE IMPOSITION OF THE SUSPENSION. IF THE FINE IS PAID TO A LOCAL LICENSING AUTHORITY, THE GOVERNING BODY OF THE AUTHORITY SHALL CAUSE THE MONEYS TO BE PAID INTO THE GENERAL FUND OF THE LOCAL LICENSING AUTHORITY. FINES PAID TO THE STATE LICENSING AUTHORITY PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

(5) IN CONNECTION WITH A PETITION PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE AUTHORITY OF THE STATE OR LOCAL LICENSING AUTHORITY IS LIMITED TO THE GRANTING OF SUCH STAYS AS ARE NECESSARY FOR THE AUTHORITY TO COMPLETE ITS INVESTIGATION AND MAKE ITS FINDINGS AND, IF THE AUTHORITY MAKES SUCH FINDINGS, TO THE GRANTING OF AN ORDER PERMANENTLY STAYING THE IMPOSITION OF THE ENTIRE SUSPENSION OR THAT PORTION OF THE SUSPENSION NOT OTHERWISE CONDITIONALLY STAYED.

(6) IF THE STATE OR LOCAL LICENSING AUTHORITY DOES NOT MAKE THE FINDINGS REQUIRED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION AND DOES NOT ORDER THE SUSPENSION PERMANENTLY STAYED, THE SUSPENSION SHALL GO INTO

EFFECT ON THE OPERATIVE DATE FINALLY SET BY THE STATE OR LOCAL LICENSING AUTHORITY.

(7) EACH LOCAL LICENSING AUTHORITY SHALL REPORT ALL ACTIONS TAKEN TO IMPOSE FINES, SUSPENSIONS, AND REVOCATIONS TO THE STATE LICENSING AUTHORITY IN A MANNER REQUIRED BY THE STATE LICENSING AUTHORITY. NO LATER THAN JANUARY 15 OF EACH YEAR, THE STATE LICENSING AUTHORITY SHALL COMPILE A REPORT OF THE PRECEDING YEAR'S ACTIONS IN WHICH FINES, SUSPENSIONS, OR REVOCATIONS WERE IMPOSED BY LOCAL LICENSING AUTHORITIES AND BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL FILE ONE COPY OF THE REPORT WITH THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES, ONE COPY WITH THE SECRETARY OF THE SENATE, AND SIX COPIES IN THE JOINT LEGISLATIVE LIBRARY.

PART 7
INSPECTION OF BOOKS AND RECORDS

12-43.3-701. Inspection procedures. (1) EACH LICENSEE SHALL KEEP A COMPLETE SET OF ALL RECORDS NECESSARY TO SHOW FULLY THE BUSINESS TRANSACTIONS OF THE LICENSEE, ALL OF WHICH SHALL BE OPEN AT ALL TIMES DURING BUSINESS HOURS FOR THE INSPECTION AND EXAMINATION OF THE STATE LICENSING AUTHORITY OR ITS DULY AUTHORIZED REPRESENTATIVES. THE STATE LICENSING AUTHORITY MAY REQUIRE ANY LICENSEE TO FURNISH SUCH INFORMATION AS IT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF THIS ARTICLE AND MAY REQUIRE AN AUDIT TO BE MADE OF THE BOOKS OF ACCOUNT AND RECORDS ON SUCH OCCASIONS AS IT MAY CONSIDER NECESSARY BY AN AUDITOR TO BE SELECTED BY THE STATE LICENSING AUTHORITY WHO SHALL LIKEWISE HAVE ACCESS TO ALL BOOKS AND RECORDS OF THE LICENSEE, AND THE EXPENSE THEREOF SHALL BE PAID BY THE LICENSEE.

(2) THE LICENSED PREMISES, INCLUDING ANY PLACES OF STORAGE WHERE MEDICAL MARIJUANA IS GROWN, STORED, CULTIVATED, SOLD, OR DISPENSED, SHALL BE SUBJECT TO INSPECTION BY THE STATE OR LOCAL LICENSING AUTHORITIES AND THEIR INVESTIGATORS, DURING ALL BUSINESS HOURS AND OTHER TIMES OF APPARENT ACTIVITY, FOR THE PURPOSE OF INSPECTION OR INVESTIGATION. FOR EXAMINATION OF ANY INVENTORY OR BOOKS AND RECORDS REQUIRED TO BE KEPT BY THE LICENSEES, ACCESS SHALL BE REQUIRED DURING BUSINESS HOURS. WHERE ANY PART OF THE LICENSED PREMISES CONSISTS OF A LOCKED AREA, UPON DEMAND TO THE LICENSEE, SUCH AREA SHALL BE MADE AVAILABLE FOR INSPECTION WITHOUT DELAY, AND, UPON REQUEST BY AUTHORIZED REPRESENTATIVES OF THE STATE OR LOCAL LICENSING AUTHORITY, THE LICENSEE SHALL OPEN THE AREA FOR INSPECTION.

(3) EACH LICENSEE SHALL RETAIN ALL BOOKS AND RECORDS NECESSARY TO SHOW FULLY THE BUSINESS TRANSACTIONS OF THE LICENSEE FOR A PERIOD OF THE CURRENT TAX YEAR AND THE THREE IMMEDIATELY PRIOR TAX YEARS.

PART 8
JUDICIAL REVIEW

12-43.3-801. Judicial review. DECISIONS BY THE STATE LICENSING AUTHORITY

OR A LOCAL LICENSING AUTHORITY SHALL BE SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

PART 9
UNLAWFUL ACTS - ENFORCEMENT

12-43.3-901. Unlawful acts - exceptions. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IT IS UNLAWFUL FOR A PERSON:

(a) TO CONSUME MEDICAL MARIJUANA IN A LICENSED MEDICAL MARIJUANA CENTER, AND IT SHALL BE UNLAWFUL FOR A MEDICAL MARIJUANA LICENSEE TO ALLOW MEDICAL MARIJUANA TO BE CONSUMED UPON ITS LICENSED PREMISES;

(b) WITH KNOWLEDGE, TO PERMIT OR FAIL TO PREVENT THE USE OF HIS OR HER REGISTRY IDENTIFICATION BY ANY OTHER PERSON FOR THE UNLAWFUL PURCHASING OF MEDICAL MARIJUANA; OR

(c) TO CONTINUE OPERATING A BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WITHOUT FILING THE FORMS AND PAYING THE FEE AS DESCRIBED IN SECTION 12-43.3-103 (1) (b).

(d) TO CONTINUE OPERATING A BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WITHOUT SATISFYING THE CONDITIONS OF SECTION 12-43.3-103 (2) (b).

(2) IT IS UNLAWFUL FOR A PERSON TO BUY, SELL, TRANSFER, GIVE AWAY, OR ACQUIRE MEDICAL MARIJUANA EXCEPT AS ALLOWED PURSUANT TO THIS ARTICLE.

(3) IT IS UNLAWFUL FOR A PERSON LICENSED PURSUANT TO THIS ARTICLE:

(a) TO BE WITHIN A LIMITED-ACCESS AREA UNLESS THE PERSON'S LICENSE BADGE IS DISPLAYED AS REQUIRED BY THIS ARTICLE, EXCEPT AS PROVIDED IN SECTION 12-43.3-701;

(b) TO FAIL TO DESIGNATE AREAS OF INGRESS AND EGRESS FOR LIMITED-ACCESS AREAS AND POST SIGNS IN CONSPICUOUS LOCATIONS AS REQUIRED BY THIS ARTICLE;

(c) TO FAIL TO REPORT A TRANSFER REQUIRED BY SECTION 12-43.3-310 (11); OR

(d) TO FAIL TO REPORT THE NAME OF OR A CHANGE IN MANAGERS AS REQUIRED BY SECTION 12-43.3-310 (12).

(4) IT IS UNLAWFUL FOR ANY PERSON LICENSED TO SELL MEDICAL MARIJUANA PURSUANT TO THIS ARTICLE:

(a) TO DISPLAY ANY SIGNS THAT ARE INCONSISTENT WITH LOCAL LAWS OR REGULATIONS;

(b) TO USE ADVERTISING MATERIAL THAT IS MISLEADING, DECEPTIVE, OR FALSE, OR THAT IS DESIGNED TO APPEAL TO MINORS;

(c) TO PROVIDE PUBLIC PREMISES, OR ANY PORTION THEREOF, FOR THE PURPOSE OF CONSUMPTION OF MEDICAL MARIJUANA IN ANY FORM;

(d) (I) TO SELL MEDICAL MARIJUANA TO A PERSON NOT LICENSED PURSUANT TO THIS ARTICLE OR TO A PERSON NOT ABLE TO PRODUCE A VALID PATIENT REGISTRY IDENTIFICATION CARD. NOTWITHSTANDING ANY PROVISION IN THIS SUBPARAGRAPH (I) TO THE CONTRARY, A PERSON UNDER TWENTY-ONE YEARS OF AGE SHALL NOT BE EMPLOYED TO SELL OR DISPENSE MEDICAL MARIJUANA AT A MEDICAL MARIJUANA CENTER OR GROW OR CULTIVATE MEDICAL MARIJUANA AT AN OPTIONAL PREMISES CULTIVATION OPERATION.

(II) IF A LICENSEE OR A LICENSEE'S EMPLOYEE HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON IS EXHIBITING A FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD IN AN ATTEMPT TO OBTAIN MEDICAL MARIJUANA, THE LICENSEE OR EMPLOYEE SHALL BE AUTHORIZED TO CONFISCATE THE FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD, IF POSSIBLE, AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION, TURN IT OVER TO THE STATE HEALTH DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE THE FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD OR TO TURN IT OVER TO THE STATE HEALTH DEPARTMENT OR A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION SHALL NOT CONSTITUTE A CRIMINAL OFFENSE.

(e) TO POSSESS MORE THAN SIX MEDICAL MARIJUANA PLANTS AND TWO OUNCES OF MEDICAL MARIJUANA FOR EACH PATIENT WHO HAS REGISTERED THE CENTER AS HIS OR HER PRIMARY CENTER PURSUANT TO SECTION 25-1.5-106 (6) (f), C.R.S.; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY HAVE AN AMOUNT THAT EXCEEDS THE SIX-PLANT AND TWO-OUNCE PRODUCT PER PATIENT LIMIT IF THE CENTER SELLS TO PATIENTS THAT ARE AUTHORIZED TO HAVE MORE THAN SIX PLANTS AND TWO OUNCES OF PRODUCT. IN THE CASE OF A PATIENT AUTHORIZED TO EXCEED THE SIX-PLANT AND TWO-OUNCE LIMIT, THE CENTER SHALL OBTAIN DOCUMENTATION FROM THE PATIENT'S PHYSICIAN THAT THE PATIENT NEEDS MORE THAN SIX PLANTS AND TWO OUNCES OF PRODUCT.

(f) TO OFFER FOR SALE OR SOLICIT AN ORDER FOR MEDICAL MARIJUANA IN PERSON EXCEPT WITHIN THE LICENSED PREMISES;

(g) TO HAVE IN POSSESSION OR UPON THE LICENSED PREMISES ANY MEDICAL MARIJUANA, THE SALE OF WHICH IS NOT PERMITTED BY THE LICENSE;

(h) TO BUY MEDICAL MARIJUANA FROM A PERSON NOT LICENSED TO SELL AS PROVIDED BY THIS ARTICLE;

(i) TO SELL MEDICAL MARIJUANA EXCEPT IN THE PERMANENT LOCATION SPECIFICALLY DESIGNATED IN THE LICENSE FOR SALE;

(j) TO HAVE ON THE LICENSED PREMISES ANY MEDICAL MARIJUANA OR MARIJUANA PARAPHERNALIA THAT SHOWS EVIDENCE OF THE MEDICAL MARIJUANA HAVING BEEN CONSUMED OR PARTIALLY CONSUMED;

(k) TO REQUIRE A MEDICAL MARIJUANA CENTER OR MEDICAL MARIJUANA CENTER

WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO MAKE DELIVERY TO ANY PREMISES OTHER THAN THE SPECIFIC LICENSED PREMISES WHERE THE MEDICAL MARIJUANA IS TO BE SOLD; OR

(l) TO SELL, SERVE, OR DISTRIBUTE MEDICAL MARIJUANA AT ANY TIME OTHER THAN BETWEEN THE HOURS OF 8:00 A.M. AND 7:00 P.M. MONDAY THROUGH SUNDAY.

(m) TO VIOLATE THE PROVISIONS OF SECTION 6-2-103 OR 6-2-105, C.R.S.

(5) EXCEPT AS PROVIDED IN SECTIONS 12-43.3-402 (4), 12-43.3-403, AND 12-43.3-404, IT IS UNLAWFUL FOR A MEDICAL MARIJUANA CENTER, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, OR MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO SELL, DELIVER, OR CAUSE TO BE DELIVERED TO A LICENSEE ANY MEDICAL MARIJUANA NOT GROWN UPON ITS LICENSED PREMISES, OR FOR A LICENSEE OR MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO SELL, POSSESS, OR PERMIT SALE OF MEDICAL MARIJUANA NOT GROWN UPON ITS LICENSED PREMISES. A VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (5) BY A LICENSEE SHALL BE GROUNDS FOR THE IMMEDIATE REVOCATION OF THE LICENSE GRANTED UNDER THIS ARTICLE.

(6) IT SHALL BE UNLAWFUL FOR A PHYSICIAN WHO MAKES PATIENT REFERRALS TO A LICENSED MEDICAL MARIJUANA CENTER TO RECEIVE ANYTHING OF VALUE FROM THE MEDICAL MARIJUANA CENTER LICENSEE OR ITS AGENTS, SERVANTS, OFFICERS, OR OWNERS OR ANYONE FINANCIALLY INTERESTED IN THE LICENSEE, AND IT SHALL BE UNLAWFUL FOR A LICENSEE LICENSED PURSUANT TO THIS ARTICLE TO OFFER ANYTHING OF VALUE TO A PHYSICIAN FOR MAKING PATIENT REFERRALS TO THE LICENSED MEDICAL MARIJUANA CENTER.

(7) A PERSON WHO COMMITS ANY ACTS THAT ARE UNLAWFUL PURSUANT TO THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT FOR VIOLATIONS THAT WOULD ALSO CONSTITUTE A VIOLATION OF TITLE 18, C.R.S., WHICH VIOLATION SHALL BE CHARGED AND PROSECUTED PURSUANT TO TITLE 18, C.R.S.

PART 10
SUNSET REVIEW

12-43.3-1001. Sunset review - article repeal. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2015.

(2) PRIOR TO THE REPEAL OF THIS ARTICLE, THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONDUCT A SUNSET REVIEW AS DESCRIBED IN SECTION 24-34-104 (8), C.R.S.

SECTION 2. 25-1.5-106, Colorado Revised Statutes, is amended to read:

25-1.5-106. Medical marijuana program - powers and duties of the state

health agency - repeal. (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS NECESSARY TO IMPLEMENT RULES TO ENSURE THAT PATIENTS SUFFERING FROM LEGITIMATE DEBILITATING MEDICAL CONDITIONS ARE ABLE TO SAFELY GAIN ACCESS TO MEDICAL MARIJUANA AND TO ENSURE THAT THESE PATIENTS:

(I) ARE NOT SUBJECT TO CRIMINAL PROSECUTION FOR THEIR USE OF MEDICAL MARIJUANA IN ACCORDANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY; AND

(II) ARE ABLE TO ESTABLISH AN AFFIRMATIVE DEFENSE TO THEIR USE OF MEDICAL MARIJUANA IN ACCORDANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY.

(b) THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS NECESSARY TO IMPLEMENT RULES TO PREVENT PERSONS WHO DO NOT SUFFER FROM LEGITIMATE DEBILITATING MEDICAL CONDITIONS FROM USING SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION AS A MEANS TO SELL, ACQUIRE, POSSESS, PRODUCE, USE, OR TRANSPORT MARIJUANA IN VIOLATION OF STATE AND FEDERAL LAWS.

(2) **Definitions.** IN ADDITION TO THE DEFINITIONS SET FORTH IN SECTION 14 (1) OF ARTICLE XVIII OF THE STATE CONSTITUTION, AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PRIMARY CAREGIVER" MEANS A NATURAL PERSON, OTHER THAN THE PATIENT OR THE PATIENT'S PHYSICIAN, WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND HAS SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT WHO HAS A DEBILITATING MEDICAL CONDITION.

~~(1)~~ (3) **Rule-making.** (a) The department shall, pursuant to section 14 of article XVIII of the state constitution, promulgate rules of administration concerning the implementation of the medical marijuana program established by such section and that specifically govern the following:

~~(a)~~ (I) The establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card;

~~(b)~~ (II) The development by the department of an application form and making such form available to residents of this state seeking to be listed on the confidential registry of patients who are entitled to receive a registry identification card;

~~(c)~~ (III) The verification by the department of medical information concerning patients who have applied for a confidential registry card;

~~(d)~~ (IV) The issuance and form of confidential registry identification cards;

~~(e)~~ (V) Communications with law enforcement officials about confidential registry identification cards that have been suspended where a patient is no longer diagnosed as having a debilitating medical condition; ~~and~~

~~(f)~~ (VI) The manner in which the department may consider adding debilitating medical conditions to the list of debilitating medical conditions contained in section 14 of article XVIII of the state

constitution; AND

(VII) A WAIVER PROCESS TO ALLOW A HOMEBOUND PATIENT WHO IS ON THE REGISTRY TO HAVE A PRIMARY CAREGIVER TRANSPORT THE PATIENT'S MEDICAL MARIJUANA FROM A LICENSED MEDICAL MARIJUANA CENTER TO THE PATIENT.

(b) THE STATE HEALTH AGENCY MAY PROMULGATE RULES REGARDING THE FOLLOWING:

(I) WHAT CONSTITUTES "SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT"; EXCEPT THAT THE ACT OF SUPPLYING MEDICAL MARIJUANA OR MARIJUANA PARAPHERNALIA, BY ITSELF, IS INSUFFICIENT TO CONSTITUTE "SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT";

(II) THE DEVELOPMENT OF A FORM FOR A PRIMARY CAREGIVER TO USE IN APPLYING TO THE REGISTRY, WHICH FORM SHALL REQUIRE, AT A MINIMUM, THAT THE APPLICANT PROVIDE HIS OR HER FULL NAME, HOME ADDRESS, DATE OF BIRTH, AND AN ATTESTATION THAT THE APPLICANT HAS A SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF THE PATIENT FOR WHOM HE OR SHE IS DESIGNATED AS THE PRIMARY CAREGIVER AND THAT HE OR SHE UNDERSTANDS AND WILL ABIDE BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS SECTION;

(III) THE DEVELOPMENT OF A FORM THAT CONSTITUTES "WRITTEN DOCUMENTATION", AS DEFINED AND USED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, WHICH FORM A PHYSICIAN SHALL USE WHEN MAKING A MEDICAL MARIJUANA RECOMMENDATION FOR A PATIENT; AND

(IV) THE GROUNDS AND PROCEDURE FOR A PATIENT TO CHANGE HIS OR HER DESIGNATED PRIMARY CAREGIVER.

(c) (I) THE STATE HEALTH AGENCY SHALL CONDUCT A PUBLIC REVIEW HEARING WITH THE DEPARTMENT OF REVENUE BY SEPTEMBER 1, 2010, TO RECEIVE PUBLIC INPUT ON ANY EMERGENCY RULES ADOPTED BY THE STATE HEALTH AGENCY AND BE PROVIDED WITH AN UPDATE FROM THE INDUSTRY, CAREGIVERS, PATIENTS, AND OTHER STAKEHOLDERS REGARDING THE INDUSTRY'S CURRENT STATUS: THE STATE HEALTH AGENCY SHALL PROVIDE AT LEAST FIVE BUSINESS DAYS' NOTICE PRIOR TO THE HEARING.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2011.

(4) NOTWITHSTANDING ANY OTHER REQUIREMENTS TO THE CONTRARY, NOTICE ISSUED BY THE STATE HEALTH AGENCY FOR A RULEMAKING HEARING PURSUANT TO SECTION 24-4-103, C.R.S., FOR RULES CONCERNING THE MEDICAL MARIJUANA PROGRAM SHALL BE SUFFICIENT IF THE STATE HEALTH AGENCY PROVIDES THE NOTICE NO LATER THAN FORTY-FIVE DAYS IN ADVANCE OF THE RULEMAKING HEARING IN AT LEAST ONE PUBLICATION IN A NEWSPAPER OF GENERAL DISTRIBUTION IN THE STATE AND POSTS THE NOTICE ON THE STATE HEALTH AGENCY'S WEB SITE; EXCEPT THAT EMERGENCY RULES PURSUANT TO SECTION 24-4-103 (6), C.R.S., SHALL NOT

REQUIRE ADVANCE NOTICE.

(5) **Primary caregivers.** (a) A PRIMARY CAREGIVER MAY NOT DELEGATE TO ANY OTHER PERSON HIS OR HER AUTHORITY TO PROVIDE MEDICAL MARIJUANA TO A PATIENT NOR MAY A PRIMARY CAREGIVER ENGAGE OTHERS TO ASSIST IN PROVIDING MEDICAL MARIJUANA TO A PATIENT.

(b) TWO OR MORE PRIMARY CAREGIVERS SHALL NOT JOIN TOGETHER FOR THE PURPOSE OF CULTIVATING MEDICAL MARIJUANA.

(c) ONLY A MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, OR A PRIMARY CAREGIVER FOR HIS OR HER PATIENTS OR A PATIENT FOR HIMSELF OR HERSELF MAY CULTIVATE OR PROVIDE MARIJUANA AND ONLY FOR MEDICAL USE.

(d) A PRIMARY CAREGIVER SHALL PROVIDE TO A LAW ENFORCEMENT AGENCY, UPON INQUIRY, THE REGISTRY IDENTIFICATION CARD NUMBER OF EACH OF HIS OR HER PATIENTS. THE STATE HEALTH AGENCY SHALL MAINTAIN A REGISTRY OF THIS INFORMATION AND MAKE IT AVAILABLE TWENTY-FOUR HOURS PER DAY AND SEVEN DAYS A WEEK TO LAW ENFORCEMENT FOR VERIFICATION PURPOSES. UPON INQUIRY BY A LAW ENFORCEMENT OFFICER AS TO AN INDIVIDUAL'S STATUS AS A PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY SHALL CHECK THE REGISTRY. IF THE INDIVIDUAL IS NOT REGISTERED AS A PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY MAY PROVIDE THAT RESPONSE TO LAW ENFORCEMENT. IF THE PERSON IS A REGISTERED PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY MAY NOT RELEASE INFORMATION UNLESS CONSISTENT WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION. THE STATE HEALTH AGENCY MAY PROMULGATE RULES TO PROVIDE FOR THE EFFICIENT ADMINISTRATION OF THIS PARAGRAPH (d).

(6) **Patient - primary caregiver relationship.** (a) A PERSON SHALL BE LISTED AS A PRIMARY CAREGIVER FOR NO MORE THAN FIVE PATIENTS ON THE MEDICAL MARIJUANA PROGRAM REGISTRY AT ANY GIVEN TIME; EXCEPT THAT THE STATE HEALTH AGENCY MAY ALLOW A PRIMARY CAREGIVER TO SERVE MORE THAN FIVE PATIENTS IN EXCEPTIONAL CIRCUMSTANCES. IN DETERMINING WHETHER EXCEPTIONAL CIRCUMSTANCES EXIST, THE STATE HEALTH AGENCY MAY CONSIDER THE PROXIMITY OF MEDICAL MARIJUANA CENTERS TO THE PATIENT. A PRIMARY CAREGIVER SHALL MAINTAIN A LIST OF HIS OR HER PATIENTS INCLUDING THE REGISTRY IDENTIFICATION CARD NUMBER OF EACH PATIENT AT ALL TIMES.

(b) A PATIENT SHALL HAVE ONLY ONE PRIMARY CAREGIVER AT ANY GIVEN TIME.

(c) A PATIENT WHO HAS DESIGNATED A PRIMARY CAREGIVER FOR HIMSELF OR HERSELF MAY NOT BE DESIGNATED AS A PRIMARY CAREGIVER FOR ANOTHER PATIENT.

(d) A PRIMARY CAREGIVER MAY NOT CHARGE A PATIENT MORE THAN THE COST OF CULTIVATING OR PURCHASING THE MEDICAL MARIJUANA, BUT MAY CHARGE FOR CAREGIVER SERVICES.

(e) (I) THE STATE HEALTH AGENCY SHALL MAINTAIN A SECURE AND CONFIDENTIAL REGISTRY OF AVAILABLE PRIMARY CAREGIVERS FOR THOSE PATIENTS WHO ARE UNABLE TO SECURE THE SERVICES OF A PRIMARY CAREGIVER.

(II) AN EXISTING PRIMARY CAREGIVER MAY INDICATE AT THE TIME OF REGISTRATION WHETHER HE OR SHE WOULD BE WILLING TO HANDLE ADDITIONAL PATIENTS AND WAIVE CONFIDENTIALITY TO ALLOW RELEASE OF HIS OR HER CONTACT INFORMATION TO PHYSICIANS OR REGISTERED PATIENTS ONLY.

(III) AN INDIVIDUAL WHO IS NOT REGISTERED BUT IS WILLING TO PROVIDE PRIMARY CAREGIVING SERVICES MAY SUBMIT HIS OR HER CONTACT INFORMATION TO BE PLACED ON THE PRIMARY CAREGIVER REGISTRY.

(IV) A PATIENT-PRIMARY CAREGIVER ARRANGEMENT SECURED PURSUANT TO THIS PARAGRAPH (e) SHALL BE STRICTLY BETWEEN THE PATIENT AND THE POTENTIAL PRIMARY CAREGIVER. THE STATE HEALTH AGENCY, BY PROVIDING THE INFORMATION REQUIRED BY THIS PARAGRAPH (e), SHALL NOT ENDORSE OR VOUCH FOR A PRIMARY CAREGIVER.

(V) THE STATE HEALTH AGENCY MAY MAKE AN EXCEPTION, BASED ON A REQUEST FROM A PATIENT, TO PARAGRAPH (a) OF THIS SUBSECTION (6) LIMITING PRIMARY CAREGIVERS TO FIVE PATIENTS. IF THE STATE HEALTH AGENCY MAKES AN EXCEPTION TO THE LIMIT, THE STATE HEALTH AGENCY SHALL NOTE THE EXCEPTION ON THE PRIMARY CAREGIVER'S RECORD IN THE REGISTRY.

(f) AT THE TIME A PATIENT APPLIES FOR INCLUSION ON THE CONFIDENTIAL REGISTRY, THE PATIENT SHALL INDICATE WHETHER THE PATIENT INTENDS TO CULTIVATE HIS OR HER OWN MEDICAL MARIJUANA, BOTH CULTIVATE HIS OR HER OWN MEDICAL MARIJUANA AND OBTAIN IT FROM EITHER A PRIMARY CAREGIVER OR LICENSED MEDICAL MARIJUANA CENTER, OR INTENDS TO OBTAIN IT FROM EITHER A PRIMARY CAREGIVER OR A LICENSED MEDICAL MARIJUANA CENTER. IF THE PATIENT ELECTS TO USE A LICENSED MEDICAL MARIJUANA CENTER, THE PATIENT SHALL REGISTER THE PRIMARY CENTER HE OR SHE INTENDS TO USE.

(7) **Registry identification card required - denial - revocation - renewal.** (a) TO BE CONSIDERED IN COMPLIANCE WITH THE PROVISIONS OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY, A PATIENT OR PRIMARY CAREGIVER SHALL HAVE HIS OR HER REGISTRY IDENTIFICATION CARD IN HIS OR HER POSSESSION AT ALL TIMES THAT HE OR SHE IS IN POSSESSION OF ANY FORM OF MEDICAL MARIJUANA AND PRODUCE THE SAME UPON REQUEST OF A LAW ENFORCEMENT OFFICER TO DEMONSTRATE THAT THE PATIENT OR PRIMARY CAREGIVER IS NOT IN VIOLATION OF THE LAW; EXCEPT THAT, IF MORE THAN THIRTY-FIVE DAYS HAVE PASSED SINCE THE DATE THE PATIENT OR PRIMARY CAREGIVER FILED HIS OR HER MEDICAL MARIJUANA PROGRAM APPLICATION AND THE STATE HEALTH AGENCY HAS NOT YET ISSUED OR DENIED A REGISTRY IDENTIFICATION CARD, A COPY OF THE PATIENT'S OR PRIMARY CAREGIVER'S APPLICATION ALONG WITH PROOF OF THE DATE OF SUBMISSION SHALL BE IN THE PATIENT'S OR PRIMARY CAREGIVER'S POSSESSION AT ALL TIMES THAT HE OR SHE IS IN POSSESSION OF ANY FORM OF MEDICAL MARIJUANA UNTIL THE STATE HEALTH AGENCY ISSUES OR DENIES THE REGISTRY IDENTIFICATION CARD. A PERSON WHO VIOLATES SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION,

OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR VIOLATIONS OF SECTION 18-18-406, C.R.S.

(b) THE STATE HEALTH AGENCY MAY DENY A PATIENT'S OR PRIMARY CAREGIVER'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD OR REVOKE THE CARD IF THE STATE HEALTH AGENCY, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., DETERMINES THAT THE PHYSICIAN WHO DIAGNOSED THE PATIENT'S DEBILITATING MEDICAL CONDITION, THE PATIENT, OR THE PRIMARY CAREGIVER VIOLATED SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS SECTION; EXCEPT THAT, WHEN A PHYSICIAN'S VIOLATION IS THE BASIS FOR ADVERSE ACTION, THE STATE HEALTH AGENCY MAY ONLY DENY OR REVOKE A PATIENT'S APPLICATION OR REGISTRY IDENTIFICATION CARD WHEN THE PHYSICIAN'S VIOLATION IS RELATED TO THE ISSUANCE OF A MEDICAL MARIJUANA RECOMMENDATION.

(c) A PATIENT OR PRIMARY CAREGIVER REGISTRY IDENTIFICATION CARD SHALL BE VALID FOR ONE YEAR AND SHALL CONTAIN A UNIQUE IDENTIFICATION NUMBER. IT SHALL BE THE RESPONSIBILITY OF THE PATIENT OR PRIMARY CAREGIVER TO APPLY TO RENEW HIS OR HER REGISTRY IDENTIFICATION CARD PRIOR TO THE DATE ON WHICH THE CARD EXPIRES. THE STATE HEALTH AGENCY SHALL DEVELOP A FORM FOR A PATIENT OR PRIMARY CAREGIVER TO USE IN RENEWING HIS OR HER REGISTRY IDENTIFICATION CARD.

(d) IF THE STATE HEALTH AGENCY GRANTS A PATIENT A WAIVER TO ALLOW A PRIMARY CAREGIVER TO TRANSPORT THE PATIENT'S MEDICAL MARIJUANA FROM A MEDICAL MARIJUANA CENTER TO THE PATIENT, THE STATE HEALTH AGENCY SHALL DESIGNATE THE WAIVER ON THE PATIENT'S REGISTRY IDENTIFICATION CARD.

(e) A HOMEBOUND PATIENT WHO RECEIVES A WAIVER FROM THE STATE HEALTH AGENCY TO ALLOW A PRIMARY CAREGIVER TO TRANSPORT THE PATIENT'S MEDICAL MARIJUANA TO THE PATIENT FROM A MEDICAL MARIJUANA CENTER SHALL PROVIDE THE PRIMARY CAREGIVER WITH THE PATIENT'S REGISTRY IDENTIFICATION CARD, WHICH THE PRIMARY CAREGIVER SHALL CARRY WHEN THE PRIMARY CAREGIVER IS TRANSPORTING THE MEDICAL MARIJUANA. A MEDICAL MARIJUANA CENTER MAY PROVIDE THE MEDICAL MARIJUANA TO THE PRIMARY CAREGIVER FOR TRANSPORT TO THE PATIENT IF THE PRIMARY CAREGIVER PRODUCES THE PATIENT'S REGISTRY IDENTIFICATION CARD.

(8) **Use of medical marijuana.** (a) THE USE OF MEDICAL MARIJUANA IS ALLOWED UNDER STATE LAW TO THE EXTENT THAT IT IS CARRIED OUT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY.

(b) A PATIENT OR PRIMARY CAREGIVER SHALL NOT:

(I) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN A WAY THAT ENDANGERS THE HEALTH AND WELL-BEING OF A PERSON;

(II) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN PLAIN VIEW OF OR IN A PLACE OPEN TO THE GENERAL PUBLIC;

(III) UNDERTAKE ANY TASK WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA, WHEN DOING SO WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE;

(IV) POSSESS MEDICAL MARIJUANA OR OTHERWISE ENGAGE IN THE USE OF MEDICAL MARIJUANA IN OR ON THE GROUNDS OF A SCHOOL OR IN A SCHOOL BUS;

(V) ENGAGE IN THE USE OF MEDICAL MARIJUANA WHILE:

(A) IN A CORRECTIONAL FACILITY OR A COMMUNITY CORRECTIONS FACILITY;

(B) SUBJECT TO A SENTENCE TO INCARCERATION; OR

(C) IN A VEHICLE, AIRCRAFT, OR MOTORBOAT;

(VI) OPERATE, NAVIGATE, OR BE IN ACTUAL PHYSICAL CONTROL OF ANY VEHICLE, AIRCRAFT, OR MOTORBOAT WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA; OR

(VII) USE MEDICAL MARIJUANA IF THE PERSON DOES NOT HAVE A DEBILITATING MEDICAL CONDITION AS DIAGNOSED BY THE PERSON'S PHYSICIAN IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP AND FOR WHICH THE PHYSICIAN HAS RECOMMENDED THE USE OF MEDICAL MARIJUANA.

(c) A PERSON SHALL NOT ESTABLISH A BUSINESS TO PERMIT PATIENTS TO CONGREGATE AND SMOKE OR OTHERWISE CONSUME MEDICAL MARIJUANA.

(9) **Limit on cultivation of medical marijuana.** ONLY REGISTERED PATIENTS, LICENSED PRIMARY CAREGIVERS, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATIONS WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, AND LICENSED MEDICAL MARIJUANA CENTERS WITH OPTIONAL PREMISES CULTIVATION LICENSES MAY CULTIVATE MEDICAL MARIJUANA.

(10) **Affirmative defense.** IF A PATIENT OR PRIMARY CAREGIVER RAISES AN AFFIRMATIVE DEFENSE AS PROVIDED IN SECTION 14 (4) (b) OF ARTICLE XVIII OF THE STATE CONSTITUTION, THE PATIENT'S PHYSICIAN SHALL CERTIFY THE SPECIFIC AMOUNTS IN EXCESS OF TWO OUNCES THAT ARE NECESSARY TO ADDRESS THE PATIENT'S DEBILITATING MEDICAL CONDITION AND WHY SUCH AMOUNTS ARE NECESSARY. A PATIENT WHO ASSERTS THIS AFFIRMATIVE DEFENSE SHALL WAIVE CONFIDENTIALITY PRIVILEGES RELATED TO THE CONDITION OR CONDITIONS THAT WERE THE BASIS FOR THE RECOMMENDATION. IF A PATIENT, PRIMARY CAREGIVER, OR PHYSICIAN RAISES AN EXCEPTION TO THE STATE CRIMINAL LAWS AS PROVIDED IN SECTION 14 (2) (b) OR (c) OF ARTICLE XVIII OF THE STATE CONSTITUTION, THE PATIENT, PRIMARY CAREGIVER OR PHYSICIAN WAIVES THE CONFIDENTIALITY OF HIS OR HER RECORDS RELATED TO THE CONDITION OR CONDITIONS THAT WERE THE BASIS FOR THE RECOMMENDATION MAINTAINED BY THE STATE HEALTH AGENCY FOR THE MEDICAL MARIJUANA PROGRAM. UPON REQUEST OF A LAW ENFORCEMENT AGENCY FOR SUCH RECORDS, THE STATE HEALTH AGENCY SHALL ONLY PROVIDE RECORDS PERTAINING TO THE INDIVIDUAL RAISING THE EXCEPTION, AND SHALL REDACT ALL OTHER PATIENT, PRIMARY CAREGIVER, OR PHYSICIAN IDENTIFYING INFORMATION.

(11) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (11), THE STATE HEALTH AGENCY SHALL ESTABLISH A BASIC FEE THAT SHALL BE PAID AT THE TIME OF SERVICE OF ANY SUBPOENA UPON THE STATE HEALTH AGENCY, PLUS A FEE FOR MEALS AND A FEE FOR MILEAGE AT THE RATE PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104, C.R.S., FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE STATE HEALTH AGENCY FOR EACH DAY OF ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

(b) THE SUBPOENA FEE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) SHALL NOT BE APPLICABLE TO ANY FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY.

~~(2)~~ (12) **Fees.** The ~~department~~ STATE HEALTH AGENCY may collect fees from patients who, pursuant to section 14 of article XVIII of the state constitution, apply to the medical marijuana program ~~established by such section~~ for a ~~marijuana~~ registry identification CARD for the purpose of offsetting the ~~department's~~ STATE HEALTH AGENCY'S direct and indirect costs of administering the program. The amount of ~~such~~ THE fees shall be set by rule of the ~~state board of health~~ STATE HEALTH AGENCY. THE AMOUNT OF THE FEES SET PURSUANT TO THIS SECTION SHALL REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE SO THAT THE FEES AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-402 (3), C.R.S. All fees collected by the ~~department~~ STATE HEALTH AGENCY through the medical marijuana program shall be transferred to the state treasurer who shall credit the same to the medical marijuana program cash fund, which fund is hereby created.

~~(3)~~ (13) **Cash fund.** (a) The medical marijuana program cash fund shall be subject to annual appropriation by the general assembly to the ~~department~~ STATE HEALTH AGENCY for the purpose of establishing, operating, and maintaining the medical marijuana program. ~~established by section 14 of article XVIII of the state constitution.~~ All moneys credited to the medical marijuana program cash fund and all interest derived from the deposit of such moneys that are not expended during the fiscal year shall be retained in the fund for future use and shall not be credited or transferred to the general fund or any other fund.

(b) ~~Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred fifty-eight thousand seven hundred thirty-five dollars from the medical marijuana program cash fund and transfer such sum to the general fund.~~

SECTION 3. 25-5-403, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-5-403. Offenses. (3) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A MEDICAL MARIJUANA CENTER OR A MEDICAL-MARIJUANA-INFUSED PRODUCTS

MANUFACTURER LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., THAT MANUFACTURES OR SELLS A FOOD PRODUCT THAT CONTAINS MEDICAL MARIJUANA SO LONG AS THE FOOD PRODUCT IS LABELED AS CONTAINING MEDICAL MARIJUANA AND THE LABEL SPECIFIES THAT THE PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY, AND THAT THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OR USE OF THE PRODUCT.

SECTION 4. 16-2.5-121, Colorado Revised Statutes, is amended to read:

16-2.5-121. Executive director of the department of revenue - senior director of enforcement for the department of revenue. The executive director and the senior director of enforcement of the department of revenue are peace officers while engaged in the performance of their duties whose authority includes the enforcement of laws and rules regarding automobile dealers pursuant to section 12-6-105 (1) (d) (II), C.R.S., the lottery pursuant to sections 24-35-205 (3) and 24-35-206 (7), C.R.S., MEDICAL MARIJUANA PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., limited gaming pursuant to section 12-47.1-204, C.R.S., liquor pursuant to section 12-47-904 (1), C.R.S., and racing events pursuant to section 12-60-203 (1), C.R.S., and the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.

SECTION 5. Part 1 of article 2.5 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-2.5-124.5. Director of marijuana enforcement and medical marijuana enforcement investigator. A MEDICAL MARIJUANA ENFORCEMENT INVESTIGATOR IS A PEACE OFFICER WHILE ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES AND WHILE ACTING UNDER PROPER ORDERS OR RULES PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., AND SHALL ALSO INCLUDE THE ENFORCEMENT OF ALL LAWS OF THE STATE OF COLORADO AND WHO MAY BE CERTIFIED BY THE P.O.S.T. BOARD.

SECTION 6. 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(z) THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S.

SECTION 7. 39-26-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-102. Definitions. As used in this article, unless the context otherwise requires:

(5.8) "MEDICAL MARIJUANA" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 12-43.3-104 (7), C.R.S.

SECTION 8. 39-26-123 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a.5) "SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA" MEANS THE NET REVENUE RAISED FROM THE STATE SALES TAXES IMPOSED PURSUANT TO THIS ARTICLE ON THE SALES OF MEDICAL MARIJUANA.

SECTION 9. 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (6) (a) FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2010, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE FIRST TWO MILLION DOLLARS OF SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA OR EQUALLY APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA IF TWO MILLION DOLLARS IS NOT GENERATED.

(b) (I) ONE HALF OF THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS OR WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE DEPARTMENT SHALL ENSURE THAT APPROPRIATIONS IN THIS LINE ITEM ARE DISTRIBUTED THROUGH THE DEPARTMENT'S DESIGNATED MANAGED SERVICE ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS. THE APPROPRIATIONS SHALL BE BASED ON, INCLUDING BUT NOT LIMITED TO SUBSTANCE USE AND MENTAL HEALTH PREVALENCE DATA THAT IS DEVELOPED WORKING COLLABORATIVELY WITH THE MANAGED SERVICES ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS.

(II) ONE HALF OF THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR SCREENING, BRIEF INTERVENTION, AND REFERRAL TO TREATMENT FOR INDIVIDUALS AT RISK OF SUBSTANCE ABUSE PURSUANT TO SECTION 25.5-5-202 (1) (u), C.R.S.

SECTION 10. 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (6) FOR ANY STATE FISCAL

YEAR COMMENCING ON OR AFTER JULY 1, 2010, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE FIRST TWO MILLION DOLLARS OF SALES TAXES ATTRIBUTABLE TO SALES TAXES PAID BY PERSONS OR ENTITIES LICENSED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR EQUALLY APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES TAXES PAID BY PERSONS OR ENTITIES LICENSED BY ARTICLE 43.3 OF TITLE 12, C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED. THE MONEYS DESCRIBED IN THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS OR WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE DEPARTMENT SHALL ENSURE THAT APPROPRIATIONS IN THIS LINE ITEM ARE DISTRIBUTED THROUGH THE DEPARTMENT'S DESIGNATED MANAGED SERVICE ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS. THE APPROPRIATIONS SHALL BE BASED ON, INCLUDING BUT NOT LIMITED TO SUBSTANCE USE AND MENTAL HEALTH PREVALENCE DATA THAT IS DEVELOPED WORKING COLLABORATIVELY WITH THE MANAGED SERVICES ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS.

SECTION 11. 25-14-203 (16), Colorado Revised Statutes, is amended to read:

25-14-203. Definitions. As used in this part 2, unless the context otherwise requires:

(16) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco OR MEDICAL MARIJUANA AS DEFINED BY SECTION 12-43.3-104 (7), C.R.S.

SECTION 12. 24-34-104 (46), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both shall terminate on July 1, 2015:

(o) THE REGULATION OF PERSONS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S.

SECTION 13. 24-72-202 (6) (b) (XI) and (6) (b) (XII), Colorado Revised Statutes, are amended, and the said 24-72-202 (6) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(XI) Information security incident reports prepared pursuant to section 24-37.5-404 (2) (e) or 24-37.5-404.5 (2) (e); ~~or~~

(XII) Information security audit and assessment reports prepared pursuant to

section 24-37.5-403 (2) (d) or 24-37.5-404.5 (2) (d); OR

(XIII) STATE AND LOCAL APPLICATIONS AND LICENSES FOR AN OPTIONAL PREMISES CULTIVATION OPERATION AS DESCRIBED IN SECTION 12-43.3-403, C.R.S., AND THE LOCATION OF THE OPTIONAL PREMISES CULTIVATION OPERATION.

SECTION 14. Part 7 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-726. Medical marijuana - debilitating conditions and ability to purchase. ALL SALES OF MEDICAL MARIJUANA TO A PATIENT WHO IS DETERMINED TO BE INDIGENT FOR PURPOSES OF WAIVING THE FEE REQUIRED BY SECTION 25-1.5-106, C.R.S. SHALL BE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE. IF THE PATIENT IS DETERMINED TO BE INDIGENT THE STATE HEALTH AGENCY SHALL MARK HIS OR HER REGISTRY IDENTIFICATION CARD AS SUCH AND THE PATIENT SHALL PRESENT THE CARD TO THE LICENSED MEDICAL MARIJUANA CENTER TO RECEIVE THE TAX EXEMPTION.

SECTION 15. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to mental health and alcohol and drug abuse services, for the fiscal year beginning July 1, 2010, the sum of three hundred thirty-four thousand two hundred twenty-seven dollars ($334,227), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana license cash fund created in section 12-43.3-501 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the enforcement business group, for the fiscal year beginning July 1, 2010, the sum of ten million three hundred seventeen thousand five hundred eighty-three dollars ($10,317,583) cash funds and 110.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of two hundred seventy-one thousand three hundred sixty-eight dollars ($271,368) and 2.0 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(4) In addition to any other appropriation, there is hereby appropriated to the department of public safety, Colorado bureau of investigation, for the fiscal year beginning July 1, 2010, the sum of two hundred sixty thousand seven hundred dollars ($260,700) and 1.2 FTE, or so much thereof as may be necessary, for the provision of background checks to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana program cash fund created in section 25-1.5-106 (12), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the center for health and environmental education, for the fiscal year beginning July 1, 2010, the sum of fifty-nine thousand seven hundred forty-seven dollars ($59,747) cash funds and 1.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 16. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to mental health and alcohol and drug abuse services, for the fiscal year beginning July 1, 2010, the sum of six hundred sixty-eight thousand four hundred fifty-four dollars ($668,454), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana license cash fund created in section 12-43.3-501 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the enforcement business group, for the fiscal year beginning July 1, 2010, the sum of ten million three hundred seventeen thousand five hundred eighty-three dollars ($10,317,583) cash funds and 110.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of two hundred seventy-one thousand three hundred sixty-eight dollars ($271,368) and 2.0 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(4) In addition to any other appropriation, there is hereby appropriated to the department of public safety, Colorado bureau of investigation, for the fiscal year beginning July 1, 2010, the sum of two hundred sixty thousand seven hundred dollars ($260,700) and 1.2 FTE, or so much thereof as may be necessary, for the provision of background checks to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana program cash fund created in section 25-1.5-106 (12), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the center for health and environmental education, for the fiscal year beginning July 1, 2010, the sum of fifty-nine thousand seven hundred forty-seven dollars ($59,747) cash funds and 1.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 17. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the

invalid provision or application, and to this end the provisions of this act are declared to be severable.

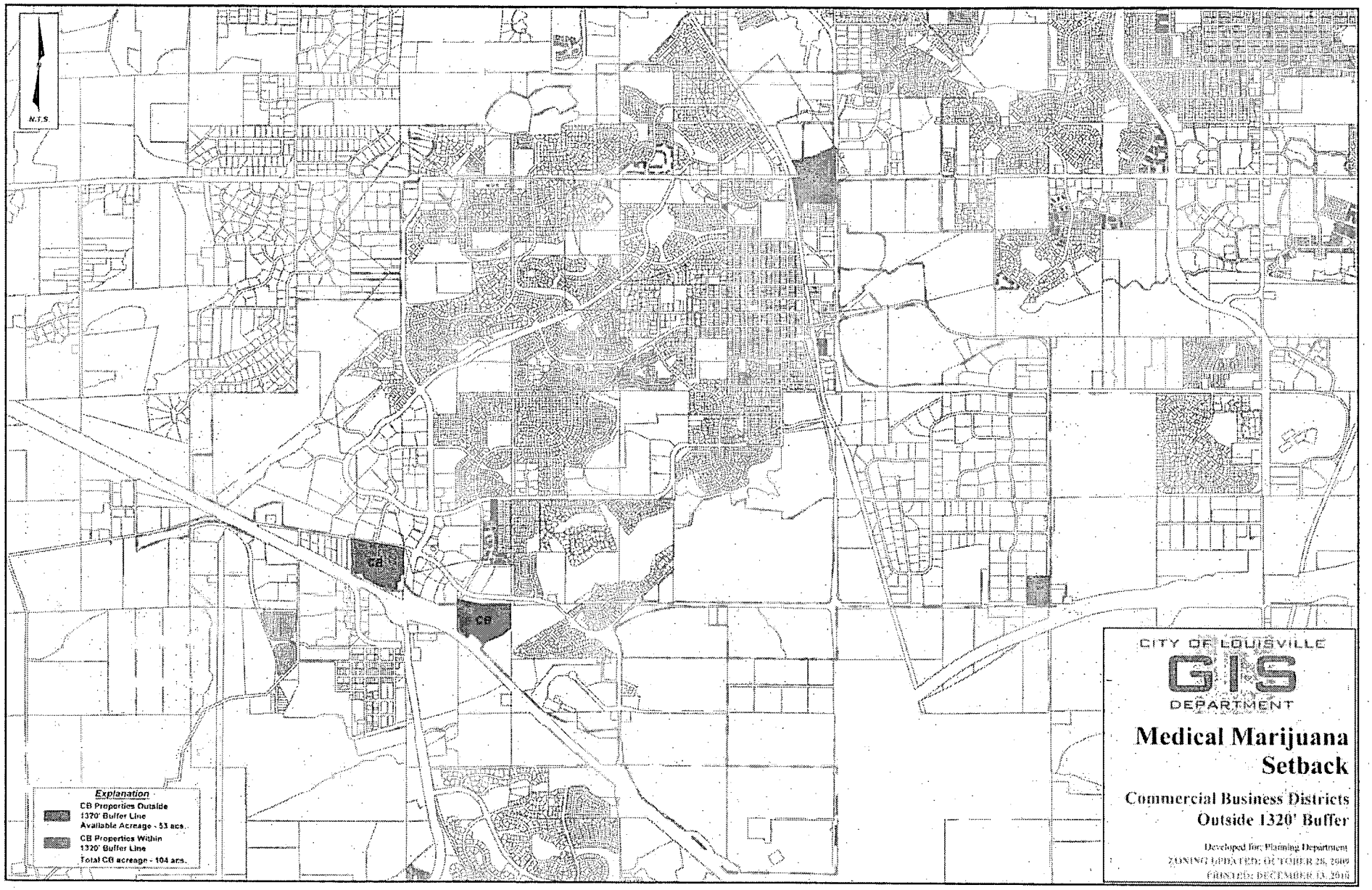
SECTION 18. Specified effective date. (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect July 1, 2010.

(2) (a) Sections 9 and 15 of this act shall take effect only if House Bill 10-1033 is enacted and becomes law and shall take effect upon the effective date of House Bill 10-1033.

(b) Sections 10 and 16 of this act shall take effect only if section 9 of this act does not take effect and does not become law.

SECTION 19. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 7, 2010


N.T.S
CB
CB
Explanation
CB Properties Outside 1320' Buffer Line
Available Acreage - 53 acs.
CB Properties Within 1320' Buffer Line
Total CB acreage - 104 acs.
CITY OF LOUISVILLE
GIS
DEPARTMENT
Medical Marijuana Setback
Commercial Business Districts Outside 1320' Buffer
Developed for: Planning Department
ZONING UPDATED: OCTOBER 28, 2009
PRINTED: DECEMBER 13, 2010

Regulatory Measure	City of Boulder Ordinance 7707	City/County of Denver Ordinance 39, Series 2010	City of Fort Collins Article XVI	City of Littleton Ordinance 2, Series 2010	Notes – suggestions for LMC
Zoning Criteria	Use by right where retail, professional/office, or greenhouse nursery are permitted.	Not permitted in any residential zone district; only permitted in zones where retail is permitted.	Not permitted in residential zone district	Not permitted in residential zone district	Should be permitted where the widest range of retail uses are permitted, in the C-B District, and not allowed in any other zoning district.
Licensing Requirements	Business license, land use approval, building permit, certificate of occupancy	MMC License – very specific requirements	Sales Tax license, MMC license – very, very specific requirements	MMC license, Sales Tax,	Business license, land use approval, building permit, certificate of occupancy.
Location Criteria	500 feet from public, private or secondary school, or a licensed day care center	1,000 feet from school or child care establishments	1,000 feet from private or public preschool, elementary, secondary, vocational or trade school; 500 feet from college, university, child care center, church, public space, juvenile or adult halfway house, etc.	500 feet from child care facility; 1,000 feet from school, public pool, public pool, public rec center, halfway house or correctional facility	Recommended 1,320 foot separation public, private elementary, middle, high school, or residential childcare facility, halfway house or correctional facility.
How is distance measured	Not discussed	Property line of affected use to nearest MMC building edge	Straight line from property line of affected property to nearest MMC building edge	Property line of affected use to nearest MMC building edge	Recommended as straight line from property line to property line.
Proximity to other uses	5oo separation from three other MMC businesses	1,000 feet from any other MMC	1,000 feet from any other MMC	1,000 feet from any other MMC	Recommended no more than 2 within a quarter mile (1,320 foot) separation from any other MMC.

Regulatory Measure	City of Boulder Ordinance 7707	City/County of Denver Ord. 39, Series 2010	City of Fort Collins Article XVI	City of Littleton Ord. 2, Series 2010	Notes – suggestions for LMC
Lead Agency	Not discussed	Department of Excise and License	City Manager	City Clerk	Local Licensing Authority
Referral of Application	Not discussed	Planning, Finance, Environmental Health, Police, and Fire	Not discussed	City Clerk, Police, Planning, City Manager – 60 day comment period	Recommended: Finance (sales tax), Police, Building, Fire, City Clerk, and Planning.
Definitions	Yes - weak	Yes - very detailed	Yes – very detailed	Yes – very detailed	Should be consistent with HB 10-1284
Growing regulated	Not discussed	Not discussed	Yes – through a cultivation facility located on site (no stand alone growing locations permitted)	Prohibited	No Cultivation allowed. Except for This should be limited to indoor growth only, certain pot size, and only for on-site sales purposes. Establish a certain percentage of building set aside for growing.
On site Consumption	Not discussed	Not discussed	Prohibited	Prohibited	Prohibited
Prohibited Acts	Not discussed	Not discussed	Yes – a very detailed section	Yes	Yes. It should be consistent with State requirements
Deliveries	Not discussed	Not discussed	Regulated	Not discussed	Hours of operation should be regulated.
Hours of Operation		Hours of Operation – no operation between 7 p.m. or 9 a.m.	Hours of Operation – no operation between 8 p.m. or 8 a.m.	Hours of Operation – no operation between 7 p.m. or 9 a.m.	8 am to 7 pm. Consistent with State regulations
Fees	Application – $3,000 License - $2,000 Renewal - $2,000 Finger Prints - $38.50	Application – $2,000 License - $3,000 Renewal - $3,000 Finger Prints -$16.50	Application - $500 License - $700 Renewal - $700 Finger Prints -$20.00	Application - $2,500 License - $2,000 Renewal – $2,000 Finger Prints-$38.50	Application - $3,000 License - $1,500 Renewal – $1,500 Finger Prints - $100

City of Louisville
COLORADO • SINCE 1882

City Council

Meeting Minutes

March 15, 2011
City Hall, Council Chambers
749 Main Street
7:00 PM

Call to Order – Mayor Sisk called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council:	***Mayor Charles Sisk, Mayor Pro Tem Sheri Marsella. Councilors: Frost Yarnell, Dave Clabots, Hank Dalton and Robert Muckle (arrived at 07:05 p.m.)***
Absent:	***Councilor Ron Sackett***
Staff Present:	***Malcolm Fleming, City Manager*** ***Heather Balser, Deputy City Manager*** ***Tom Phare, Public Works Director*** ***Kevin Watson, Finance Director*** ***Troy Russ, Planning Director*** ***Joe Stevens, Parks & Recreation Director*** ***David Thompson, Senior Civil Engineer*** ***Nancy Varra, City Clerk***
Others Present:	***Sam Light, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Sisk called for changes to the agenda and hearing none, moved to approve the agenda. Councilor Yarnell seconded the motion. All were in favor. Absent: Councilors Sackett and Muckle.

APPROVAL OF THE CONSENT AGENDA

Mayor Sisk called for changes to the consent agenda and hearing none moved to

approve the consent agenda, seconded by Councilor Yarnell. All were in favor. Absent: Councilors Sackett and Muckle.

- ***A. Approval of Bills***
- ***B. Approval of March 1, 2011 Regular Minutes***
- ***C. Resolution No. 12, Series 2011 – A Resolution Approving a Preservation and Restoration Grant for Exterior Site Improvements to the Jacoe-Conarroe House Located at 1131 Jefferson Avenue***
- ***D. Resolution No. 13, Series 2011 – A Resolution Approving a Commercial Card Agreement with First National Bank of Omaha***
- ***E. Resolution No. 14, Series 2011 – A Resolution Accepting the Dedication of Right-of-Way for Hecla Drive and Designating for Use for Right-of-Way and Utility Purposes Portions of City-Owned Outlot B of the Davidson Highline P.U.D. Subdivision***
- ***F. Approve Adler Fingru Open Space Stormwater Utility and Drainage Easement Request***
- ***G. Approve Keep It Clean Partnership Amended Intergovernmental Agreement (IGA) to include City of Lafayette for Stormwater Phase II Regulations***
- ***H. Approve Cancellation of the March 22, 2011 City Council Study Session***

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Deborah Fahey, 1118 W. Enclave Circle, Louisville, Co reported on the proceeds from the Senior Foundation fundraisers. The "Savor the Favor" event, (proceeds from the Empire Grill, Lucky Pie, The Huckleberry, Tibet's, Old Santa Fe Grill, Zucca's Restaurant and the Cactus Wheel) raised $2,700; the Annual Heat Relief Dinner at the Recreation Center raised $2,500 and cash contributions of $32.50, for a grand total of $5,232.50. She thanked the Blue Parrot for donating the food, Word of Mouth for the bread and Balfour for the brownies. She thanked Kathy Martin and the Recreation Staff for setting up the event and presented a letter to the Council, which thanked Kathy Martin and the Recreation and Senior Center staff for all their efforts.

Alan Sobel, 1408 Kennedy, Louisville, CO continued his filibuster he began in April of 2010, which addressed his perception the City of Louisville, protects the interests of large corporations and not the interest of the citizens. He reported on CCTV, which he believes started out as a public access television group, but now is a private media company. Mr. Sobel stated that CCTV is no longer a public access station, but still enjoys access to the PEG fees and public access channel. He noted none of the Board Members are Louisville residents, which is stipulated in their contract with the City. CCTV's studio is now located within a private studio in Lafayette and any broadcast requires a fee and a criminal background check. He did not believe the City of Louisville should subsidize a non public access station. He recommended the PEG fees be put into an escrow account pending resolution of this matter and that this topic be an agenda item at a future study session.

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Sisk asked City Manager Fleming to follow up on the CCTV allegations.

Mayor Sisk reported on the RTD Board meeting, where $305 Million dollars was allocated for projects underfunded by FasTacks. Those allocations included: $90 Million to US 36, $17 Million to the City of Longmont for a downtown station, $90 Million to the North Metro line and $90 Million for the I-225 project. RTD will conduct a public meeting on the Northwest rail line at Louisville Middle School on March 16, from 6:00 to 8:00 p.m. He stressed the importance of DRCOG allocating $80,000 to the City of Louisville for station planning and thanked Deputy City Manager Balser and Councilor Muckle for their efforts.

CITY MANAGER'S REPORT

City Manager Fleming reported two years ago, *Money Magazine* ranked Louisville as the number one place to live in the country. He felt today, the City of Louisville is even a better place to live and listed the many new additions to the City, including new restaurants; steady housing prices; a new neighborhood to the north; library circulation passing the 500,000 mark in a year; more jobs thanks to Vestas; a Parking and Pedestrian Action Plan and solar panels at the utility plants. He asked others to send him their lists of the City's attributes, which could be forwarded to Money Magazine.

REGULAR BUSINESS

PROCLAMATION FOR NUTRITION MONTH FOR SENORS

Mayor Sisk read the Proclamation, which proclaimed March 2011 as Nutrition Month in the City of Louisville.

The following members of the Seniors Congregate Meal Site were recognized: Richard Cohen, Charlie Fischer, Deborah Fahey and Carol and Jim Purfurst. Also recognized were Senior Services Supervisor Katie Beasley and Community Resource Coordinator Diane Evans, Mayor Pro Tem Marsella and Councilor Clabots.

Mayor Pro Tem Marsella thanked all the Brooks Café volunteers including Angie, Richard, Charley, Deborah, Carmen, Dora, Juan and Stacy. She also thanked Katie Beasley and Diane Evans.

MEDICAL MARIJUANA LAND USE AND BUSINESS REGULATIONS

ORDINANCE No. 1590, SERIES 2011 – AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR MEDICAL MARIJUANA BUSINESSES - 2nd Reading – Public Hearing

ORDINANCE No. 1591, SERIES 2011 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING MEDICAL MARIJUANA BUSINESSES – 2nd Reading – Public Hearing

Mayor Sisk requested a City Attorney introduction.

City Attorney Light introduced Ordinances No.1590 and 1591, Series 2011.

Mayor Sisk opened the public hearing requested a Staff presentation on both ordinances.

Planning Director Russ reviewed the second reading amendments to Ordinance 1590, Series 2011. Revisions were made in Section 4, Section 5.10.070.A and Section 17.16.235.B1. He gave a brief history of Amendment 20 to the Colorado Constitution approved by Colorado voters in 2000 and House Bill (HB) 10-1284, concerning the regulation of medical marijuana, which provides guidance on local governments' ability to regulate such businesses.

Ordinance # 1590, Series 2011 amends Title 5 of the LMC to: (1) establish a comprehensive licensing ordinance for all medical marijuana centers and infused products manufacturers; (2) set location requirements for medical marijuana businesses and requirements governing the operation of these businesses; and (3) address the cultivation of marijuana by patients and primary caregivers who serve no more than five patients (unless the primary caregiver has been authorized by the state health agency to serve additional patients) and do not constitute a medical marijuana center.

Types of Licenses and Licensing Procedures - The proposed provisions would allow two types of licenses:

1. A medical marijuana center (MMC) license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of the City's ordinance and C.R.S. § 12-43.3-402 to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.
2. A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of the City's ordinance and C.R.S. § 12-43.3-404.

The ordinance designates the Authority as the licensing authority for the City. It will have the power to review and act on applications for new licenses and renewals and to

consider revocation and suspension of licenses. The Authority is given the power to adopt rules of procedure related to these activities.

Ordinance # 1591, Series 2011 amends Title 17 of the LMC to define medical marijuana businesses that may receive licenses consistent with definitions in HB 10-1284 and to specify the permitted and non-permitted uses associated with medical marijuana businesses. While HB 10-1284 recognizes at a state level a license for cultivation activities on identified optional premises, the City ordinance expressly prohibits cultivation within the City.

Location, Proximity, and Size -In addition to the permitted uses and zoning designations identified in Title 17, staff recommended the following criteria be included as part of the licensing regulations:

1. Allowed only in the Commercial Business (C-B) zone district;
2. A 1,320' separation requirement from schools, public playgrounds, outdoor pools, outdoor education facilities serving children, alcohol or drug treatment facilities, and residential childcare facilities;
3. A maximum allowance of no more than one medical marijuana business within a 1,320' radius;
4. A maximum leasable square feet allowance of 1,800 SF;
5. Not allowed on City property; and
6. Not allowed to operate as an outdoor vendor.

Mayor Sisk requested public comments. There were no comments.

COUNCIL COMMENTS

Councilor Muckle requested restrictions on signage. He felt if there were any references to marijuana in the signage it should include "medical" marijuana and no other phrases.

Mayor Pro Tem Marsella voiced her appreciation to Planning Director Russ, Deputy City Manager Balser and City Attorney Light for their work on both ordinances.

Mayor Sisk suggested that anyone who has any interest in a Medical Marijuana Center be subject to the application process. He also voiced his appreciation to the staff for their work.

Deputy City Manager Balser noted the Planning Commission's two dissenting votes felt Medical Marijuana Centers should be banned in the City.

Mayor Sisk closed the public hearing.

ORDINANCE No. 1590, SERIES 2011 – AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR MEDICAL MARIJUANA BUSINESSES - 2nd Reading – Public Hearing

MOTION: Mayor Pro Tem Marsella moved to approve Ordinance No. 1590, Series 2011 on second and final reading, seconded by Councilor Clabots.

City Attorney Light offered two friendly amendments: 1) Remove from Pages 145 and 148 any reference of 10% financial ownership and 2) Revision to Section 5.10.150 to add a phrase that no sign may refer to marijuana by any other identifier.

Mayor Pro Tem Marsella and Councilor Clabots accepted the friendly amendments.

VOTE: Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Councilor Sackett.

ORDINANCE No. 1591, SERIES 2011 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING MEDICAL MARIJUANA BUSINESSES – 2nd Reading – Public Hearing

MOTION: Mayor Pro Tem moved to approve Ordinance No. 1591, Series 2011 on second and final reading, seconded by Councilor Clabots. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Councilor Sackett.

ORDINANCE No. 1593, SERIES 2011 – AN ORDINANCE AMENDING CHAPTER 13.12 OF THE LOUISVILLE MUNICIPAL CODE REGARDING TAP FEES FOR WATER SERVICE CONNECTIONS HAVING DIFFERING TAP AND METER SIZES, AND REGARDING BILLING FOR UTILITY SERVICES PROVIDED BY THE CITY – 1st Reading - Set Public Hearing

Mayor Sisk requested a City Attorney introduction.

City Attorney Light introduced Ordinance No.1593, Series 2011.

Mayor Sisk opened the public hearing and requested a Staff presentation.

Public Works Director Phare explained Ordinance No. 1593, Series 2011 proposes to clarify the City Code pertaining to the actual physical size of water service lines and meters in comparison to the capacity purchased and paid for at the time of building permit. Historically the City has allowed over-sizing of water service lines, from the city water main to a property being served, beyond that purchased through a tap fee. However, in order to limit the demand a new service places on the water system meter sizes are limited to the size of the service capacity purchased. This practice has allowed phasing of developments and accommodating anticipated future water demands without

needing to replace water service lines at great expense to the property owner and significant impact to City infrastructure.

Staff also requests a second matter related to individual customer account management also be addressed with ordinance changes. The City Manager proposes the Finance Director have the authority to accept partial payments and installment sales, to grant credits for water leaks, and to waive penalties in certain situations. Customers facing disconnection of service for failure to pay on delinquent accounts often request to make partial payment or to commit to a payment plan in return for the City suspending service disconnection. The Finance Department does not currently have the authority to suspend the disconnection process for partial payments or pay-plan agreements.

Section 13.12.125 of the proposed ordinance allows the Finance Department to develop written rules, policies, and procedures for the waiver of penalties. This provision is similar to the provision for the waiver of penalties associated with delinquent sales tax. The rules, policies and procedures developed by the Finance Department would be presented for City Council consideration and approval.

Once the proposed ordinance becomes effective, the Finance Department will make a billing rate change to all accounts that have a difference between their tap size and their meter size. The change in the actual amount billed will vary depending on the amount of consumption, the tap size currently used for billing, and the meter size proposed to be used for billing. Most of the individual accounts will see very small changes to their monthly billing. However, Staff has identified nine high-consumption accounts projected to see significant changes.

Mayor Sisk requested public comments and hearing none, closed the public hearing.

MOTION: Councilor Muckle moved to approve Ordinance No. 1593, Series 2011 on second and final reading, seconded by Councilor Dalton. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Councilor Sackett.

RESOLUTION No. 15, SERIES 2011 – A RESOLUTION APPROVING A CONTRACT BETWEEN THE CITY OF LOUISVILLE AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR INTERSECTION IMPROVEMENTS AT MCCASLIN BOULEVARD AND DILLON ROAD

Mayor Sisk requested a Staff presentation.

Senior Civil Engineer Thompson explained the City of Louisville obtained approval from the Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA) to use federal earmark funds programmed for the US-36/McCaslin Blvd Interchange for improvements at the McCaslin Blvd/Dillon Road intersection. The City demonstrated the 2035 traffic queues for the US36 Corridor

Project for the McCaslin Blvd/Dillon Road intersection are projected to impact the US36 and McCaslin Blvd signalized intersection.

The scope of the McCaslin Blvd/Dillon Road intersection project is to eliminate the split phase of the existing traffic signal in order to improve the efficiency of the signal. This will decrease overall delay at the intersection and traffic queues for northbound McCaslin Blvd. The City will also look for opportunities to improve pedestrian and bicycle mobility through the intersection.

There is a possibility right of way acquisition and/or construction easements will be needed in order to construct the intersection improvements. Michael Baker Jr., Inc. was selected by the City to perform the preliminary engineering and right of way work (if needed) for the intersection improvements. A Professional Services Agreement will be executed between Michael Baker and the City to start the design and right of way work once the contract is executed by CDOT.

The preliminary schedule is to complete the design work in 2011 and advertise the project for construction in the early spring of 2012. The preliminary schedule and project costs will be impacted if right of way must be acquired to construct the intersection improvements. Staff will schedule a Study Session with City Council to discuss recommended design improvements, project costs and project schedule at the appropriate time in the future.

Mayor Sisk requested public comments. There were no comments.

COUNCIL COMMENTS

Mayor Pro Tem Marsella asked if the right of way has to be increased, will CDOT contribute to the funding. Senior Civil Engineer Thompson confirmed CDOT would contribute to the funding.

Mayor Sisk asked for a history of the project. Senior Civil Engineer Thompson explained at one time there was a joint project with the Town of Superior for the US-36/McCaslin Blvd Interchange northeast loop. As that project was not cleared in the environmental work, and thus not eligible for funding, those funds were diverted to McCaslin Boulevard to eliminate the split phase of the existing traffic signal in order to improve the efficiency of the signal as well mobility on US 36.

Mayor Sisk inquired why a contractor has already been determined. Senior Civil Engineer Thompson stated the RFP process per City policy was followed in order to perform the preliminary engineering and right of way work (if needed) for the intersection improvements.

Deputy City Manager Balser thanked CDOT for their cooperation.

MOTION: Councilor Dalton moved to approve Resolution No. 15, Series 2011, seconded by Mayor Pro Tem Marsella. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Councilor Sackett.

RESOLUTION No. 16, SERIES 2011 – A RESOLUTION RECOMMENDING APPROVAL OF A ONE (1) YEAR EXTENSION OF THE EXPIRATION OF THE PRELIMINARY SUBDIVISION PLAT AND PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) PLAN FOR 2270 SOUTH 88TH STREET (CONOCOPHILLIPS), LOUISVILLE FROM APRIL 6, 2011 TO APRIL 6, 2012.

Mayor Sisk requested a Staff presentation.

Planning Director Russ explained the applicant (ConocoPhillips) has requested a one year extension of the expiration of a preliminary subdivision plat and preliminary planned unit development (PUD) plan for 2270 South 88th Street. The preliminary plat and preliminary PUD development plan were originally approved by City Council on April 6, 2010. An extension of the preliminary plat and preliminary development plan expiration dates must be granted in order for the applicant to proceed to final subdivision plat and final development plan after April 6, 2011.

Due to the scale of the project, ConocoPhillips has requested the one year extension to April 6, 2012 to provide the applicant sufficient time to complete internal reviews and submit the final development plans for approval. The one year extension of the approval time is the only modification being requested to the preliminary plat and preliminary PUD development plan. All other aspects of the original plan approved by City Council remain unchanged.

Sections 16.12.030.(E) and Section 17.28.170.(D) of the LMC allow for a one-year extension of approval time for preliminary subdivision plats and preliminary PUD development plans respectively when applied for in writing to the Planning Commission. The one year lifespan of the preliminary subdivision plat and preliminary PUD development plans enables the City to ensure proposed development stays consistent with City codes and regulations. There have been no changes to the LMC, the PCZD zoning requirements, nor the Commercial Development Design Standards and Guidelines that would warrant a reexamination of the approved preliminary subdivision plat and preliminary PUD development plan.

The Planning Commission held a public hearing on March 10, 2011 and unanimously approved a resolution recommending City Council approval of the Plat and PUD expiration extension request with no conditions. Staff recommended approval of the one year extension of the expiration of the preliminary subdivision plat and preliminary PUD development plan for ConocoPhillips, 2270 South 88th Street, from April 6, 2011 to April 6, 2012 with no conditions.

APPLICANT PRESENTATION

Wayne McCreesh, representing ConocoPhillips, confirmed due to the scale of the project, the one year extension will provide the applicant sufficient time to complete internal reviews and submit the final development plans for approval.

Mayor Sisk inquired about the ownership of the properties. Mr. McCreesh noted the ownership of the properties has not changed.

Mayor Sisk requested public comment. There were no public comments.

MOTION: Councilor Dalton moved to approve Resolution No. 16, Series 2011, seconded by Mayor Sisk. All were in favor. Absent: Councilor Sackett.

EXECUTIVE SESSION – REAL PROPERTY ACQUISITION
(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions, only with respect to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

REGULAR BUSINESS ITEMS SUSPENDED

City Attorney Light explained the City Manager has requested an executive session for the purpose of considering real property acquisitions – potential purchase of land, but only with respect to appraisals and other value estimates and strategy.

City Clerk Varra read the statement from Section 2.90.050 of the Louisville Municipal Code, which outlines the topics eligible for discussion during an executive session.

City Attorney Light explained the executive session is for the purpose of considering real property acquisitions – potential purchase of land. He cited the Statement of Authority for convening an executive session as follows: Louisville Charter, Section 5-2(3) – Authorized Topics – Consideration of real property acquisitions and the Colorado Open Meeting Law, Section .R.S. 24-6-402(4) (a).

Councilor Dalton recused himself from the executive session due to a possible conflict of interest associated with this potential acquisition. He asked if Council makes a decision on the strategy on the property's acquisition, an announcement of the decision be made, so he may be free to talk about it at a later date.

MOTION: Mayor Sisk moved the City Council convene an executive session to discuss and consider real property acquisitions, but only with respect to appraisals and other value estimates and strategy. He requested the executive session include the City Council, City Attorney Light, City Manager Fleming, Deputy City Manager Balser and Parks and Recreation Director Stevens. Councilor Clabots seconded the motion. All were in favor. Absent: Councilor Sackett. Councilor Dalton was recused from the executive session and left the meeting.

The City Council adjourned into executive session at 08:20 p.m. The City Council reconvened the business meeting at 09:09 p.m.

REGULAR BUSINESS ITEMS CONTINUED

REPORT – DISCUSSION/DIRECTION/ACTION REAL PROPERTY ACQUISITION

City Attorney Light reported the executive session was for the purpose of considering real property acquisitions. In executive session staff received Council direction with regard to strategy for potential acquisition for a parcel of property. Staff will take the direction and further pursue the acquisition strategy. He noted if negotiations were reached on any potential acquisition of property it would require Council review of contract documents at a public meeting.

CITY ATTORNEY'S REPORT

City Attorney Light reported although the Consent Agenda was approved with Item 4B – March 1, 2011 City Council Minutes, the City Council packet omitted a copy of the minutes. He asked Council for a motion to reconsider the Consent Agenda eliminating Item 4B – March 1, 2011 City Council Minutes. The approval of the March 1, 2011 minutes will be brought forward to the April 5, 2011 meeting for Council approval.

MOTION: Councilor Muckle moved the City Council reconsider and approve the Consent Agenda with the omission of Item 4B – March 1, 2011 City Council Minutes, seconded by Mayor Pro Tem Marsella. All were in favor. Absent: Councilors Sackett and Dalton.

City Attorney reported the settlement payment was made to Hamon. He noted there are remaining issues regarding fees and costs relating to the litigation. He requested an executive session in April to discuss strategies for clearing the last remaining issues.

COUNCIL COMMENTS AND COMMITTEE REPORTS

None.

ADJOURN

MOTION: Councilor Clabots moved for adjournment, seconded by Councilor Yarnell. All were in favor. Absent: Councilors Sackett and Dalton. The meeting was adjourned at 09:14 p.m.

Charles Sisk, Mayor

Nancy Varra, City Clerk

City of Louisville
COLORADO • SINCE 1878

CITY COUNCIL COMMUNICATION
AGENDA ITEM 8C

SUBJECT: REGULATING RETIAL MARIJUANA ESTABLISHMENTS

1. **ORDINANCE NO. 1648 , SERIES 2013 AN ORDINANCE OF THE CITY OF LOUISVILLE AMENDING THE TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR OPERATION OF RETAIL MARIJUANA ESTABLISHMENTS WITHIN THE CITY – 2nd Reading – PUBLIC HEARING (advertised *Daily Camera* 12/08/13)**

2. **ORDINANCE NO. 1649, SERIES 2013 AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR RETAIL MARIJUANA ESTABLISHMENTS – 2nd Reading – PUBLIC HEARING (advertised *Daily Camera* 12/08/13)**

3. **ORDINANCE NO. 1650, SERIES 2013 AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING RETAIL MARIJUANA ESTABLISHMENTS – 2nd Reading – PUBLIC HEARING (advertised *Daily Camera* 12/08/13)**

4. **RESOLUTION NO. 69, SERIES 2013 A RESOLUTION SETTING FEES FOR RETAIL MARIJUANA ESTABLISHMENTS IN THE CITY OF LOUISVILLE**

DATE: **DECEMBER 17, 2013**

PRESENTED BY: **SCOTT ROBINSON, PLANNER1**
MALCOLM FLEMING, CITY MANAGER
SAM LIGHT, CITY ATTORNEY
HEATHER BALSER, DEPUTY CITY MANAGER
BRUCE GOODMAN, POLICE CHIEF
TROY RUSS, PLANNING AND BUILDING SAFETY DIRECTOR
CAROL HANSON, DEPUTY CITY CLERK

SUMMARY:
On November 6, 2012, Colorado voters approved Amendment 64 to the Colorado Constitution, allowing the cultivation, use, possession, and retail sale of marijuana and marijuana products. The amendment defined four types of retail marijuana establishments for the cultivation, processing, testing, and sale of retail marijuana and retail marijuana products, collectively called retail marijuana establishments.

Amendment 64 gave local governments the right to regulate the time, place, manner, and number of those retail marijuana establishments in their jurisdiction, or to prohibit them outright. A prohibition on retail marijuana establishments may be enacted by ordinance or through an initiated or referred measure appearing on a general election ballot during an even numbered year. At the October 1, 2013 meeting, City Council placed a moratorium on the licensing of any retail marijuana establishments in the City until after the November 2014 election, during which time a ballot question could be referred to the voters on whether to prohibit retail marijuana establishments in the City.

Currently, there are two medical marijuana dispensaries operating in the City, both in the Colony Square shopping center. At the October 1 meeting, Council requested staff develop regulations that would allow the two existing medical marijuana dispensaries to convert to retail marijuana stores or dual licensed premises. Dual licensed premises may sell both medical and retail marijuana with a physical separation of the businesses if medical marijuana is to be sold to customers younger than 21, and only virtual separation of the businesses if all sales are limited to those older than 21.

Ordinance No. 1648, Series 2013 would loosen the moratorium to allow the existing stores, and only the existing stores, to convert to either retail marijuana stores or dual licensed premises. Ordinances No. 1649 and No. 1650, Series 2013, would implement the regulatory scheme developed earlier in the year, incorporating the recommendations of Council from the September 17, 2013 meeting. Resolution No. 69, Series 2013 would set the fees associated with processing and administering licenses for retail marijuana establishments.

At the December 3, 2013 Council meeting, staff presented an ordinance on first reading that would have set ballot language for the November 2014 election. The proposed language would have asked the voters whether all retail marijuana establishments should be prohibited in the City. Council rejected the ordinance on first reading. If Council wishes to place a question on the ballot for the 2014 election, the language must be decided by July.

Ordinance No. 1648 includes a section limiting any retail marijuana license issued to an existing medical marijuana business to use at the currently existing premises. Therefore, if these ordinances are approved by Council, the zoning requirements for retail marijuana establishments recommended by Council would be in place, but no business would be able to take advantage of them until after the moratorium expires at the end of 2014. Council may enact a prohibition or repeal the moratorium by ordinance at any time.

If the existing medical marijuana businesses are allowed to convert and do so, and the voters or Council subsequently ban retail marijuana establishments, the City would not renew businesses' retail marijuana licenses the next time they come up for renewal. The stores would need to either convert back to medical marijuana only or close.

Ordinance No. 1648 includes language in Section 1 making this risk explicit to the existing stores if they convert.

The changes made to the proposed regulations since the September 17th meeting reflect Council's responses to the nine options presented at that meeting. The proposed regulations now mostly match the existing regulations for medical marijuana establishments, with a few differences. Under the proposed retail regulations, stores would be allowed in the CB, CC, and PCZD-C zone districts, instead of just CB. The buffer requirements from other specified uses such as schools and playgrounds would match at 1,320 feet, but the retail regulations also include a buffer from the future St. Louis Parish site and a prohibition from downtown Louisville. No separation requirement between stores is included, but the maximum number of stores allowed in the City would be capped at four. Under the ordinance, the maximum size for a retail marijuana store would be 2,000 square feet.

Retail marijuana cultivation facilities and retail marijuana products manufacturing facilities are not allowed under the proposed regulations, but retail marijuana testing facilities are. Testing facilities are labs that measure the concentration of chemicals in marijuana and marijuana products, and would be allowed in the I, PCZD-I, and PCZD-C districts by right, and in the CB, AO, and BO districts by special review. Signage for all retail marijuana establishments would be limited to the name and trademark of the business.

Retail marijuana establishments would require licenses from the state and from the Local Licensing Authority before they could operate. The state would perform background checks and forward the results to the Local Licensing Authority for consideration during the review process. Application fees would be paid to the state, which would then remit half of the fee to the City. The City would receive $2,500 for new business applications and $250 for conversion applications. Staff believes these amounts would be sufficient to cover expenses associated with an application, so the proposed regulations do not include any additional application fee.

Resolution No. 69, Series 2013 sets additional fees for retail marijuana establishments, including an annual operating fee of $1,500 to cover the costs associated with monitoring the businesses. These fees are the same as for medical marijuana establishments and staff believes the amounts adequately reflect the City's expenses.

Also included for Council's consideration are optional additions to Ordinance No. 1649 based on the recommendations of Boulder County Health. These options would, according to the County, help limit potential harmful impacts on youth. Option #1 in Attachment 5 would reduce how late stores may be open, from midnight to 7 pm, matching the allowed operating hours in both the City of Boulder and Boulder County. Option #2 would prohibit stores from selling any merchandise such as shirts with the store's name and logo. Marijuana and marijuana products would still be allowed to have the name and logo on packaging. Option #3 would require stores to use an

electronic ID scanner to verify the age of all customers. Boulder County Health estimates electronic ID scanners would cost around $1,000. Option #4 would prohibit stores from giving away free marijuana or marijuana products for promotional purposes. Option #5 would prohibit stores from giving out coupons for discounts on marijuana or marijuana products.

FISCAL IMPACT:
Allowing the two existing medical marijuana dispensaries to convert to retail marijuana stores or dual licensed premises will have a negligible fiscal impact on the City. Allowing retail marijuana establishments in the City could generate new revenue through taxes and fees, though there would be offsetting costs associated with licensing and monitoring the new establishments.

RECOMMENDATION:
Staff recommends City Council approve Ordinance No. 1648, Series 2013, Ordinance No. 1649, Series 2013, and Ordinance No. 1650, Series 2013 and Resolution No. 69, Series 2013 with possible amendments as offered by Council.

ATTACHMENTS:

1. Ordinance No. 1648, Series 2013 - Amending the temporary moratorium on the establishment or operation of retail marijuana establishments

2. Ordinance No. 1649, Series 2013 - Amending title 5 of the Louisville municipal code to adopt regulations regarding business licensing and operational requirements for retail marijuana establishments

3. Ordinance No. 1650, Series 2013 - Amending title 17 of the Louisville municipal code to adopt regulations regarding retail marijuana establishments

4. Resolution No. 69, Series 2013 - Setting fees for retail marijuana establishments in the City of Louisville

5. Options

6. Maps

ORDINANCE NO. 1648
SERIES 2013

AN ORDINANCE OF THE CITY OF LOUISVILLE AMENDING THE TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR OPERATION OF RETAIL MARIJUANA ESTABLISHMENTS WITHIN THE CITY

WHEREAS, on October 1, 2013, the City Council adopted Ordinance No. 1643, Series 2013, an emergency ordinance establishing a temporary moratorium on the establishment or operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores (collectively, "retail marijuana establishments") within the City, which moratorium lasts until December 31, 2014; and

WHEREAS, the purpose of the moratorium is to allow City Staff and the City Council the opportunity to study the issues, further develop regulations and recommendations pertaining to such businesses, and to review and consider referring to the City's registered electors the question of whether such businesses should be prohibited within the City; and

WHEREAS, the moratorium, as drafted, applies to new businesses desiring to apply for retail marijuana licenses and existing medical marijuana businesses that wish to convert to retail marijuana establishments or to operate both a medical marijuana business and retail marijuana establishment in the same shared premises; and

WHEREAS, the Colorado Retail Marijuana Code (codified at C.R.S. § 12-43.4-101) and the implementing regulations promulgated by the Department of Revenue include provisions allowing existing medical marijuana businesses in good standing to apply for retail marijuana licenses and to share their premises with retail marijuana establishments, unless prohibited by a local jurisdiction; and

WHEREAS, the City Council desires to amend its temporary moratorium on retail marijuana establishments to allow existing medical marijuana businesses within the City to apply for retail marijuana licenses, subject to certain restrictions, including that any retail marijuana license obtained shall be subject to non-renewal in the event retail marijuana establishments are prohibited within the City through the enactment of an ordinance or by vote of the registered electors of the City, which prohibition shall constitute "good cause" for non-renewal of a license;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. The temporary moratorium on retail marijuana establishments established by Ordinance No. 1643, Series 2013 shall not apply to an existing medical marijuana business applying for a retail marijuana license. An existing medical marijuana business may apply for a retail marijuana license in accordance with all State and local laws and regulations. Any retail marijuana license issued to an existing medical marijuana business shall: (1) be limited to use at the premises specified in the medical marijuana business license issued by the Louisville Local Licensing Authority as of the effective date of Ordinance No. 1643, Series 2013; and (2) shall be

subject to non-renewal in the event retail marijuana establishments are prohibited within the City through the enactment of an ordinance or by vote of the registered electors of the City, which prohibition shall constitute "good cause" for non-renewal of a license

Section 2. For purposes of this ordinance, "existing medical marijuana business" shall mean any medical marijuana business that, prior to the effective date of Ordinance No. 1643, Series 2013, has been issued a medical marijuana business license from the Louisville Local Licensing Authority and the State Licensing Authority and has been continuously operated as a medical marijuana business in accordance with state and local laws and regulations since such date. "Retail marijuana," "retail marijuana establishment," "medical marijuana," and "medical marijuana business" shall have the meanings ascribed to them in Article XVIII, §14(1) and §16(2) of the Colorado Constitution, C.R.S. §12.43.3-103 and §12-43.4-103, any rules adopted by the Colorado Department of Revenue, and Chapter 5.10 of the Louisville Municipal Code and such definitions are hereby incorporated into this ordinance by reference.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

ORDINANCE NO. 1649
SERIES 2013

AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR RETAIL MARIJUANA ESTABLISHMENTS

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution, referred to as Amendment 64, was approved by Colorado voters in November 2012; and

WHEREAS, Amendment 64 legalized the private use of marijuana for persons twenty-one years of age or older; and

WHEREAS, the Governor on May 28, 2013 signed into law House Bill 13-1317 (HB 13-1317) which provides guidance for local governments to regulate retail marijuana establishments; and

WHEREAS, Amendment 64 and HB 13-1317 outline multiple options for local municipalities from the outright banning of retail marijuana establishments to establishing detailed regulations and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation, and in addition to the authority set forth in Amendment 64, HB 13-1317 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to license and regulate businesses, occupations and establishments, and to otherwise exercise its police powers in the interest of the public health, safety and welfare; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain retail marijuana establishments as permitted land uses and license them with local licensing standards and regulations governing the time, place, manner and number of retail marijuana establishments as authorized in Amendment 64 and HB 13-1317, including without limitation, provisions concerning distance restrictions, restrictions on the size of retail marijuana establishments, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, and standards that retail marijuana establishment owners and employees must satisfy; and

WHEREAS, the Louisville Local Licensing Authority has reviewed the amendments set forth herein and has recommended the City Council approve the amendments to Title 5 of the Louisville Municipal Code set forth in this ordinance; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to

establish local regulations governing the location, licensing and operation of retail marijuana establishments; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 5 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 5.11 which shall read in its entirety as follows:

Chapter 5.11
RETAIL MARIJUANA

Sec. 5.11.010. Purpose; relationship with the Colorado Retail Marijuana Code.
Sec. 5.11.020. Definitions.
Sec. 5.11.030. Classes of retail marijuana licenses authorized.
Sec. 5.11.040. Authorization of the local licensing authority.
Sec. 5.11.050. License requirements.
Sec. 5.11.060. Screening and response to state license applications.
Sec. 5.11.070. Local license procedure
Sec. 5.11.080. Location criteria; co-location.
Sec. 5.11.090. Persons prohibited as licensees; background checks.
Sec. 5.11.100. Duration of license; renewal.
Sec. 5.11.110. Annual operating fee.
Sec. 5.11.120. Use and display of license.
Sec. 5.11.130. Management of licensed premises; employees.
Sec.5.11.140. Change in manager; change in financial interest; modification of premises.
Sec. 5.11.150. Hours of operation.
Sec. 5.11.160. Signage and advertising.
Sec. 5.11.170. Security requirements.
Sec. 5.11.180. Cultivation, growing, and manufacturing.
Sec. 5.11.190. Labeling.
Sec. 5.11.200. On-site consumption of retail marijuana.
Sec. 5.11.210. Prohibited acts.
Sec. 5.11.220. Visibility of activities; control of emissions.
Sec. 5.11.230. Disposal of marijuana byproducts.
Sec. 5.11.240. Sales and use tax.
Sec. 5.11.250. Inspection of books and records and licensed premises.
Sec. 5.11.260. Non-renewal, suspension, or revocation of license.
Sec. 5.11.270. Violations and penalties.
Sec. 5.11.280. No City liability; indemnification.
Sec. 5.11.290. Other laws remain applicable.

Sec. 5.11.300. Severability.

Sec. 5.11.010 Purpose; relationship with the Colorado Retail Marijuana Code.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 16 of the Colorado Constitution while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that retail marijuana establishments be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a retail marijuana establishment might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using retail marijuana establishments in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of retail marijuana establishments.

B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

C. Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, ordinance, rule or regulation, the more restrictive provision shall control.

Sec. 5.11.020. Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 64 means that certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added Section 16 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license, license renewal, or other licensing action pursuant to this chapter. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Retail Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.

Cultivation means the process by which a person grows a marijuana plant.

Division means the Marijuana Enforcement Division.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, or a directorship or officership.

Good cause, for purposes of denying, refusing to renew, suspending or revoking a license, means:

a) the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any applicable state or local law, rules, or regulations;
b) the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
c) the licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment; or
d) The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a retail marijuana establishment pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to manufacture, distribute, sell, or test retail marijuana and retail marijuana products in accordance with this chapter and all applicable laws, rules and regulations.

Local licensing authority means the City of Louisville Local Licensing Authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories mean any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that *person* does not include any governmental organization.

Premises means a distinctly identified, as required by the State Licensing Authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

Public or private elementary, middle, junior high, or high school means existing public or private elementary, middle, junior high, or high schools and public or private elementary, middle, junior high, or high school sites designated as a use permitted by right on a planned community general development plan that has been granted approval by the City Council on or before the date an application for a retail marijuana establishment license is received by the City.

Public playground means a City-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Secretary means the secretary of the local licensing authority or such person's designee.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this state, pursuant to C.R.S. § 12-43.4-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 64, the Colorado Retail Marijuana Code, and the rules and regulations promulgated thereunder, as in effect from time to time, and such definitions are hereby incorporated into this chapter by this reference.

Sec. 5.11.030. Classes and number of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-402 and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-405 and any related rules and regulations.

B. There shall be no more than four licensed retail marijuana stores operating within the City. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the City, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.

Sec. 5.11.040. Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of retail marijuana establishments in the City of Louisville, including without limitation all such powers set forth in this Code, the Colorado Retail Marijuana Code, and all related rules and regulations, as from time to time amended.

B. The local licensing authority may grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section 5.08.130 of this Code, as from time to time amended.

Sec. 5.11.050. License requirements.

It shall be unlawful for any person to establish or operate a retail marijuana establishment in the city without first having obtained a license for such business from the state and local licensing authorities. Such licenses shall be kept current at all times, and the failure to maintain current licenses shall constitute a violation of this section.

Sec. 5.11.060. Screening and response to state license applications.

A. Upon receipt of an application from the state licensing authority for a retail marijuana license, the secretary of the local licensing authority shall:

1. Initially determine, in consultation with the Planning and Building Safety Department, whether or not the proposed location complies with any and all zoning and land use laws of the city and any and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this chapter. If the secretary makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this Code, the secretary shall notify the state licensing authority in writing that the application is disapproved by the city. The failure of the secretary to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority or the secretary from determining that the proposed license is in violation of any zoning law or other restriction set forth in this Code, and disapprove the issuance of a local license on this basis.

2. For any application that is not disapproved as provided in subsection 1, the secretary shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this chapter, after which the secretary will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

Sec. 5.11.070. Local license procedure.

A. Applications for local licenses shall be made on forms provided by the Division and shall include all materials required by the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder.

B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely

upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:

1. name, address, date of birth;
2. a complete set of fingerprints;
3. if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
4. the name and complete address of the proposed retail marijuana establishment;
5. if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
6. a copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
7. evidence of a valid sales tax license for the business;
8. a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entry ways and exits to the retail marijuana establishment, loading zones and all areas in which retail marijuana or retail marijuana products will be stored, processed or dispensed;
9. a comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:
    i. a security plan meeting the requirements of section 5.11.170;
    ii. a description of all products to be sold;
    iii. a signage plan that is in compliance with all applicable requirements of Section 5.11.160, this Code and the applicable design standards and guidelines; and
10. any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority or his or her designee shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The Planning and Building Safety Department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter, the Retail Marijuana Code, and any applicable state or local rule or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until a state license has been issued and the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the Planning and Building Safety Department has performed the inspection required by this chapter.

Sec. 5.11.080. Location Criteria; co-location.

A. No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within one thousand three hundred and twenty (1,320) feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. upon any city property; or
2. in a dwelling unit or any residentially zoned districts; or
3. within Downtown Louisville as defined by section 17.08.113 of this Code; or
4. within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.

B. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding two thousand (2,000) square feet of leasable floor space, nor shall such licensed premises ever exceed two thousand (2,000) square feet of leasable floor space.

C. No retail marijuana establishment shall operate as an outdoor or transient retailer,

vendor or peddler, or as any temporary or accessory use.

D. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

E. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and City to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
3. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

Sec. 5.11.090. Persons prohibited as licensees; background checks.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.4-306 and the rules and regulations promulgated by the State of Colorado.

B. In investigating the qualifications of an applicant, licensee, owner, or manager of a retail marijuana establishment, the local licensing authority shall make a finding and determination as to the good moral character and criminal history of such persons in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. In so doing, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the state licensing authority or may, in its sole discretion, make its own findings.

C. The city shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check or may, in its sole discretion, perform its own background check. In such case, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license. If the city performs the criminal background check, a fee in the amount established by resolution of City Council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, and any other persons required to be qualified pursuant to the Colorado Retail Marijuana Code, this chapter, and any related rules and regulations. The local licensing authority may verify any of the information an applicant is required to submit.

Sec. 5.11.100. Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one (1) original of such license for each retail marijuana establishment to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one (1) year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee in the amount established by City Council by resolution to the local licensing authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

D. The local licensing authority may deny a renewal application for good cause pursuant to section 5.11.260.

Sec. 5.11.110. Annual operating fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of the

City Council. The annual operating fee may be refunded if the application is denied.

Sec. 5.11.120. Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.11.140.C.

B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the City upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this Chapter 5.11 (including, but not limited to, the location criteria set forth in section 5.11.080), the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the retail marijuana establishment.

Sec. 5.11.130. Management of licensed premises; employees.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers and employees must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history contrary to the requirements of the Colorado Retail Marijuana Code or any rules or regulations promulgated thereunder.

Sec. 5.11.140. Change in manager; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers to the local licensing authority within seven (7) days after the change.

B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the subject of the license and receive approval prior to any transfer or change pursuant to Subsection C. of this Section. A report is required for transfers of capital stock of any corporation regardless of size.

C. For a transfer of ownership, the license holder shall apply to the state and local licensing authorities. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this Chapter 5.11, the Colorado Retail Marijuana Code, and any related rules and regulations,

as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.4-308.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the state and local licensing authorities. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. Each application for modification of premises shall be accompanied by an application fee in amount established by resolution of the City Council.

Sec. 5.11.150. Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and midnight.

Sec. 5.11.160. Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of title 17 of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder. In addition, all signage of the retail marijuana establishment, including but not limited to temporary signage, shall contain only the business name and trademark of the retail marijuana establishment.

Sec. 5.11.170. Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all retail marijuana establishments shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Retail Marijuana Code. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Sec. 5.11.180. Cultivation, growing, and manufacturing.

The cultivation and growing of marijuana plants and the manufacturing of retail marijuana

products is prohibited within the City of Louisville, except as permitted for non-retail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the City a marijuana cultivation facility or a retail marijuana products manufacturing facility.

Sec. 5.11.190. Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

Sec. 5.11.200. On-site consumption of retail marijuana.

The consumption of marijuana or marijuana products on or within the licensed premises of a retail marijuana establishment is prohibited.

Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:
   1. Violate or fail to comply with any provision of Amendment 64, the Colorado Retail Marijuana Code, any rules and regulations adopted thereunder, or any applicable state or local law, ordinance, rule or regulation.
   2. To allow marijuana or marijuana products to be consumed upon its licensed premises.
   3. To use advertising material that is misleading, deceptive, or false or that is designed to appeal to minors.
   4. To sell retail marijuana or retail marijuana products to a person under twenty-one years of age or to a person who does not present a government issued identification at the time of purchase.
   5. To sell more than a quarter of an ounce of retail marijuana or more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of the State of Colorado.
   6. To have on the licensed premises any retail marijuana, retail marijuana products, or marijuana paraphernalia that shows evidence of the marijuana or marijuana product having been consumed or partially consumed.
   7. Distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution center.

B. It shall be unlawful for a retail marijuana store:
   1. To sell or give away any consumable product, including but not limited to, cigarettes, alcohol, or edible products that do not contain marijuana (e.g., soda, candy, and baked goods).
   2. To sell retail marijuana or retail marijuana products over the internet or to deliver marijuana or marijuana products to a person not physically present in the licensed premises.

C. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the Colorado Retail Marijuana Code, and this Code.

Sec. 5.11.220. Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Sec. 5.11.230. Disposal of marijuana byproducts.

The disposal of retail marijuana, byproducts and marijuana accessories shall be done in accordance with the Colorado Retail Marijuana Code and any other applicable state and local laws, ordinances and regulations.

Sec. 5.11.240. Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all retail marijuana, retail marijuana products, marijuana accessories and other tangible personal property sold, dispensed, used or purchased at the retail marijuana establishment, in accordance with the requirements of chapter 3.20 of this Code.

Sec. 5.11.250. Inspection of books and records and licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and

records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where retail marijuana or retail marijuana products are stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

Sec. 5.11.260. Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

Sec. 5.11.270. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, owner, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

Sec. 5.11.280. No City liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the retail marijuana establishment for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on

account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

Sec. 5.11.290 Other laws remain applicable.

A. To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the State or federal government prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

Sec. 5.11.300. Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 2. Upon the effective date of this ordinance, and until December 31, 2014, no application or request for a change in location of premises shall be received, reviewed, approved, or otherwise acted upon, and any license issued pursuant to this ordinance shall be limited to use at the premises specified in the application for such license.

Section 3. Any person who violates any provision of this ordinance shall be punished by a fine of not more than the maximum fine set forth in section 1.28.010.A of the

City Code or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 4. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any portion of the Louisville Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

ORDINANCE NO. 1650
SERIES 2013

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING RETAIL MARIJUANA ESTABLISHMENTS

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution, referred to as Amendment 64, was approved by Colorado voters in November 2012; and

WHEREAS, Amendment 64 legalized the private use of marijuana for persons twenty-one years of age or older; and

WHEREAS, the Governor on May 28, 2013 signed into law House Bill 13-1317 (HB 13-1317) which provides guidance for local governments to regulate retail marijuana establishments; and

WHEREAS, Amendment 64 and HB 13-1317 outline multiple options for local municipalities from the outright banning of retail marijuana establishments to establishing detailed regulation and licensing requirements; and

WHEREAS, the City of Louisville is a home rule municipal corporation, and in addition to the authority set forth in Amendment 64, HB 13-1317 and other state statutes, has authority pursuant to Article XX of the Colorado Constitution and the Louisville Home Rule Charter to establish zoning districts and zoning regulations regulating the use of land within the City; and

WHEREAS, the Louisville City Council directed staff to develop a series of ordinances that will allow certain retail marijuana establishments as permitted land uses and license them with additional local licensing standards and regulations governing the time, place, manner, and number of retail marijuana establishments as authorized by Amendment 64, HB 13-1317, including without limitation provisions concerning such things as distance restrictions, restrictions on the size of retail marijuana establishments, minimum security measures, hours of operation, restrictions or requirements pertaining to deliveries, restrictions on signage, and standards that retail marijuana establishment owners and employees must satisfy; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has provided its recommendation to the City Council regarding the amendments to Title 17 of the Louisville Municipal Code concerning the matters addressed in this ordinance; and

WHEREAS, by adoption of this ordinance, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law but rather to establish local regulations governing the location and use of land for retail marijuana establishments; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 17.08 of the Louisville Municipal Code is hereby amended by the addition of new Sections 17.08.406.A. and B, to read as follows:

Sec. 17.08.406.A. Retail marijuana.
Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment. For the purposes of this section, *marijuana* shall have the meaning set forth in section 5.11.010 of this code.

Sec. 17.08.406.A.(1) Retail marijuana products.
Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana manufacturing facility.

Sec. 17.08.406.B.(1) Retail marijuana establishment.
Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility.

Sec. 17.08.406.B.(2) Retail marijuana cultivation facility.
Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Sec. 17.08.406.B.(3) Retail marijuana products manufacturing facility.
Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Sec. 17.08.406.B.(4) Retail marijuana store.
Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Sec. 17.08.406.B.(5) Retail marijuana testing facility.
Retail marijuana testing facility means an entity licensed to analyze and certify the

safety and potency of marijuana.

Section 2. Section 17.12.030 of the Louisville Municipal Code is hereby amended by the addition of new use groups 52a, 52b, 52c and 52d, to read as follows:

Sec. 17.12.030. Use groups.

		Districts																	
Use Groups		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-RR-ER-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I	PCZD	MUR	OS
52a	Retail Marijuana Store*****	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	No		No	No
52b	Retail Marijuana Cultivation Facility	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
52c	Retail Marijuana Products Manufacturing Facility	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
52d	Retail Marijuana Testing Facility *****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No

***** No retail marijuana store or retail marijuana testing facility shall be located, permitted or licensed to operate in Downtown Louisville as defined by section 17.08.113 of this Code.

Section 3. Section 17.14.050 of the Louisville Municipal Code is hereby amended by the addition of new use groups to read as follows:

Principal Uses	**CC**	**MU-R**
Commercial Use Group		
Retail Marijuana Store	Yes – Except prohibited within Downtown Louisville, as defined by section 17.08.113 of this Code	No
Retail Marijuana Cultivation Facility	No	No
Retail Marijuana Products Manufacturing Facility	No	No
Retail Marijuana Testing Facility	No	No

Section 4. Section 17.16.040 of the Louisville Municipal Code is hereby amended

to read as follows: (words added are **bold** and **underlined**; words deleted are **bold** and **stricken through**):

Sec. 17.16.040 Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; medical marijuana centers; medical marijuana – infused products manufacturers; medical marijuana optional premises cultivation operations; **retail marijuana establishments;** the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 5. Chapter 17.16 of the Louisville Municipal Code is hereby amended by the addition of a new Section 17.16.237, to read as follows:

Sec. 17.16.237 Retail marijuana establishments.

A. Except for retail marijuana store and retail marijuana testing facility uses in locations permitted under sections 17.12.030, 17.14.050, 17.72.090 and 5.11.080 and licensed pursuant to chapter 5.11, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any retail marijuana establishments.

B. No retail marijuana store or retail marijuana testing facility shall, at the time it is established and first licensed by the city, be located, within one thousand three hundred and twenty (1,320) feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility.

   Further no retail marijuana store or retail marijuana testing facility shall be located, permitted, or licensed to operate:

   1. upon any city property; or
   2. in a dwelling unit or any residentially zoned districts; or

3. within Downtown Louisville as defined by section 17.08.113 of this Code; or
4. within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.

C. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding two thousand (2,000) square feet of leasable floor space, nor shall such a licensed premises ever exceed two thousand (2,000) square feet of leasable floor space.

D. No retail marijuana store or retail marijuana testing facility shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

E. The distances described in subsection B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana store or retail marijuana testing facility is located.

Section 6. Section 17.72.090 of the Louisville Municipal Code is hereby amended by the addition of a new subsection B.21, to read as follows:

21. Retail marijuana stores and retail marijuana testing facilities.

Section 7. Upon the effective date of this ordinance, and until December 31, 2014, no application or request for a change in location of premises shall be received, reviewed, approved, or otherwise acted upon, and any license issued pursuant to this ordinance shall be limited to use at the premises specified in the application for such license.

Section 8. Any person who violates any provision of this ordinance shall be punished by a fine of not more than the maximum fine set forth in section 1.28.010.A of the City Code or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 9. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 10. The repeal or modification of any portion of the Louisville Municipal Code of the City of Louisville by this ordinance shall not release, extinguish,

alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 11. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light, Kelly & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2013.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

RESOLUTION NO. 69,
SERIES 2013

A RESOLUTION SETTING LICENSE FEES FOR RETAIL MARIJUANA ESTABLISHMENTS IN THE CITY OF LOUISVILLE

WHEREAS, pursuant to Ordinance No. 1649, Series 2013, the City Council is authorized to establish background check, annual operating, premises modification, and other fees for retail marijuana establishments; and

WHEREAS, the City Council wishes to establish by this resolution the amounts of fees for said licenses and applications; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Louisville, Colorado that:

Section 1. Pursuant to Ordinance No. 1649, Series 2013, the Louisville City Council hereby establishes fees for retail marijuana establishment in accordance with the schedule attached as Exhibit A to this resolution and made a part hereof. City staff is hereby directed to update the City's fee table to include such fees.

Section 2. The fees set by this resolution shall be effective December 17, 2013 and may thereafter be amended from time to time by resolution of the City Council.

Section 3. If any portion of this resolution is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions hereof.

PASSES AND ADOPTED this 17th day of December, 2013.

BY: _____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

Exhibit A to Resolution No. 69, Series 2013

Fees established by Resolution of the City Council

Code Section Reference	Fee Description	Fee
5.11.090.C	Retail Marijuana - Fingerprinting and background check fee	$100 per person
5.11.110	Retail Marijuana - Annual operating fee	$1,500
5.11.100.C	Retail Marijuana – Late renewal application fee	$500
5.11.140.D	Retail Marijuana - Premises modification fee	$1,500
5.11.120.B	Retail Marijuana – Change in location application fee	$1,500
5.11.140.B	Retail Marijuana – Transfer of ownership application fee	$3,000

Option #1 - Sec. 5.11.150. Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and ~~midnight~~ 7:00 p.m.

Option #2 - Sec. 5.11.160. Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of title 17 of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder. In addition, all signage of the retail marijuana establishment, including but not limited to temporary signage, shall contain only the business name and trademark of the retail marijuana establishment. No marijuana business shall sell, distribute or provide, or allow the sale, distribution or provision of, products marked with its name or logo, other than packaging in which marijuana is sold or on marijuana products. This prohibition shall not prevent employees of the business from wearing uniforms with the name or logo while working for the business on the business premises.

Option #3 - Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:
   1. …
   2. To sell retail marijuana or retail marijuana products to a person under twenty-one years of age or to a person who does not present a government issued identification at the time of purchase. The business shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.

Option #4 - Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:

   …

   8. Distribute or allow the distribution of any marijuana without charge within a marijuana business or any place open to the public for purpose of promotion or advertising.

Option #5 - Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:

   …

   8. No marijuana business shall distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana product either free or at a discount.

Sustainability Advisory Board

Mary Ann Heaney	4 Year Term	1/14 – 12/17
Mark Persichetti	4 Year Term	1/14 – 12/17
Justine Vigil-Tapia	4 Year Term	1/14 – 12/17
David Hsu	2 Year Term	1/14 – 12/15

Mayor Muckle proposed the Council appoint former Council member Ron Sackett as Senior Consultant to the Golf Course Advisory Board. Ron has long served the community; has an interest in the golf course and was involved early on in the golf course. Ron would attend all the meetings, but not be a voting member.

MOTION: Council member Keany moved to approve all the appointments, seconded by Mayor Muckle.

Mayor Muckle noted Council member Jasiak would not vote on the appointments because she was out of town and did not attend the interviews.

VOTE: All in favor. Abstain: Council member Jasiak.

REGULATING RETAIL MARIJUANA ESTABLISHMENTS

1. ORDINANCE No. 1648, SERIES 2013 – AN ORDINANCE OF THE CITY OF LOUISVILLE AMENDING THE TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR OPERATION OF RETAIL MARIJUANA ESTABLISHMENTS WITHIN THE CITY – 2nd Reading and Public Hearing

2. ORDINANCE No. 1649, SERIES 2013 – AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMETS FOR RETAIL MARIJUANA ESTABLISHMENTS – 2nd Reading and Public Hearing

3. ORDINANCE No. 1650, SERIES 2013 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING RETAIL LMARIJUANA ESTABLISHMENTS – 2nd Reading and Public Hearing

4. RESOLUTION No. 69, SERIES 2013 – A RESOLUTION SETTING FEES FOR RETAIL MARIJUANA ESTABLISHMENTS IN THE CITY OF LOUISVILLE

Mayor Muckle requested a City Attorney introduction.

City Attorney Light explained there are three Ordinances before Council on the regulations for retail marijuana (1648, 1649 and 1650) for second reading and Resolution No. 69, Series 2013, which sets the fees for retail marijuana. He noted the public may speak on any of the agenda items concerning retail marijuana

establishments. He read Ordinances No. 1648, 1649, and 1650, Series 2013 and Resolution No. 69, Series 2013.

Mayor Muckle opened the public hearing and requested a staff presentation.

Planner I Robinson reviewed Ordinance Nos. 1648, 1648 and 1650 and Resolution No. 69, Series 2013.

- Ordinance No. 1648, Series 2013 loosens the moratorium to allow the existing stores, and only the existing stores, to convert to either retail marijuana stores or dual licensed premises. It also includes a section prohibiting either of the existing businesses from changing locations until at least 2015.
- Ordinances No. 1649 and No.1650, Series 2013, implements the regulatory scheme and licensing requirements and includes a land use requirement, which follows the regulations of Medical Marijuana.
- Resolution No.69, Series 2013 sets the fees for retail marijuana establishments in the City of Louisville.

Included for Council consideration were five options submitted by the Boulder County Health Department intended to deter the use of marijuana products by the youth population. Those options are as follows:

Option #1 would reduce how late stores may be open, from midnight to 7 pm, matching the allowed operating hours in both the City of Boulder and Boulder County.

Option #2 would prohibit stores from selling any merchandise such as shirts with the store's name and logo. Marijuana and marijuana products would still be allowed to have the name and logo on packaging.

Option #3 would require stores to use an electronic ID scanner to verify the age of all customers. Boulder County Health estimates electronic ID scanners would cost around $1,000.

Option #4 would prohibit stores from giving away free marijuana or marijuana products for promotional purposes.

Option #5 would prohibit stores from giving out coupons for discounts on marijuana or marijuana products

Planner Robinson stated that tf the City Council desired to expressly extend the retail moratorium to marijuana businesses not specifically contemplated in Amendment 64, staff proposed second reading amendments to Ordinance No. 1648, Series 2013 to address such uses. Those businesses would include any business involved in cultivation, processing, preparing, manufacturing, storage, sale, testing, distribution, use

of consumption of marijuana. Additionally, during such time, no application or request for business registration, sale tax license, building permit or certificate of occupancy for any such business, commerce, enterprise or establishment shall be received, reviewed, approved, or otherwise acted upon. City Attorney Light stated the language in the second reading amendments overlaps with language addressing the establishments specifically contemplated in Amendment 64, but would serve to expressly confirm that the moratorium extends to these other operations.

Staff recommended approval of Ordinance No. 1648, Ordinance No. 1649, Ordinance No. 1650 and Resolution 69, Series 2013 on second reading and final reading with possible amendments as offered by Council.

COUNCIL COMMENTS

Council member Loo addressed the recommendations made by the Health Department relative to T-shirts and inquired if it would be permissible for an employee to wear a logoed T-Shirt from his car to the establishment. City Attorney Light explained the intent is to have some level of enforcement discretion.

She asked about the issue of freedom of speech. City Attorney Light explained Amendment 64 authorizes local governments to act as provided for within the amendment and to adopt additional regulations concerning the time, place and manner of operations. The phrase time, place and manner does not mean first amendment rights are automatically attached to the conduct and activities by marijuana establishments. He did not believe there was a first amendment issue currently.

Council member Loo inquired about the reliability of the electronic ID scanner devices. Planner I Robinson explained a scanner takes the information from a drivers' license to determine proof of age. According to the County they are reliable and cost $1,000.

Chief Goodman stated electronic readers have been around for a long time. Colorado does not require them for any business, although some states do require liquor establishments to use them to determine proof of age. Colorado does not require liquor establishment to use them. Some states have a problem with capturing the data and there are some alleged privacy issues.

Council member Loo inquired what other neighboring communities are following the Health Department's recommendations. Planner I Robinson did not know if other communities were following the Health Department's recommendations.

Council member Stolzmann asked for more information about dual licensing. Planner I Robinson explained a dual premise license would allow the sale of both medical (18 years of age and over) and retail marijuana (21 years of age and over) in the same building with a wall separating each business. A dual license requires two separate points of entry and two separate points of sale. There can be two stores, side-by-side, with the same owner, but the operation must maintain two sets of books.

Council member Stolzmann asked if the two existing medical marijuana could actually have a dual license. Planner I Robinson stated they could if they had a separate entry door for each business and a separate point of sale.

Council member Jasiak asked if a dual premise license is still limited to the 2,000 square feet. Planner I Robinson confirmed they would be limited to 2,000 square feet. Council member Keany stated his understanding the clothing with logos, such as hats and shirts, cannot be sold by the marijuana establishment, but could be sold for the establishments by other businesses. City Attorney Light explained Option #2 of the Health Department's recommendation specifies no marijuana business shall sell, distribute or provide, or allow the sale, distribution or provision of, products marked with its name or logo.

Council member Keany inquired whether the Local Licensing Authority would be requiring all liquor stores to have ID scanners. He felt it creates a double standard.

Council member Jasiak stated her understanding that the scanners would be used to determine age in marijuana establishments. She asked if the intent is to scan everyone. Planner I Robinson stated the language in Option #3 states the business shall verify the proof of age of every person entering the business with an electronic ID scanner.

City Attorney Light clarified Option #5, relative to promotions for free or discounted merchandise, for advertising purposes. The specific language in Amendment 64 states it is not unlawful for a person 21 years of age or older to transfer one ounce of marijuana or less to another person over 21 without remuneration. Option #5 regulates the licensee, its employees or agents, but not individual persons.

PUBLIC COMMENTS

Linda Spangler, 1744 Garfield Avenue, #103, Louisville, CO stated she is a marijuana consumer and patient and found the law to be unfair and hypocritical. She noted within the .8 square mile radius of Louisville there are 58 liquor licenses. She felt marijuana is safer than liquor and stated it has been proven in communities who have approved marijuana that the use among the youth population goes down. She felt the community is punishing marijuana users. She wanted to see Louisville and Colorado lead the way. She stated with all those who try marijuana, there is a 9% addiction rate, with alcohol there is a 13% addiction rate and with tobacco there is a 23% addiction rate. She stated marijuana is safer.

Sharon Pauley, 524 Ridge View, Louisville, CO stated she is a licensed clinical social worker, who works at the Mental Health Center, serving Boulder and Broomfield Counties. In her work she has seen patients who have chronic mental illness and substance use problems. She stated there are individuals in the community who are susceptible to extraordinary problems when they use any kind of substance and

marijuana is not an exception for some individuals and may lead to chronic mental health problems. She stated although there may be tax collected from the sale of marijuana, there may be a substantial outlay of money to care for people who develop substance abuse problems. One concern is the type of marijuana produced today has a much higher concentration of more psycho- active ingredients. This is a major concern for persons in their teenage years because any substance, including marijuana, impairs the development of their brain. Marijuana effects memory, it prevents short term memories from long term memory storage. She asked Council to consider the information she provided.

Tracy Haley, Louisville, CO voiced her support for marijuana legislation. She stated if alcohol is allowed in the City, marijuana should also be allowed. She stated marijuana is less destructive than alcohol and felt alcohol tends to produce violence, whereas marijuana does not. She suggested having at least as many retail marijuana stores as there are liquor stores and as many cultivation operations as there are breweries. She felt the Colorado Tech Center could provide an opportunity for cultivation. She felt the youth consumption would be more controlled in retail stores where ID's are scanned. She asked Council to consider the points she brought up.

Health Harmon, Director of Programs for the Boulder County Public Health Department, 3415 N. Broadway, Boulder, CO, provided information about the health department's position relative to marijuana's harmful impact to the youth. He stated a few years ago, they conducted a comprehensive health assessment for Boulder County, which focused on improving the health of all Boulder County residents. Three areas rose to the top: 1) substance abuse, 2) healthy eating and 3) active living.

Substance abuse was not strictly focused on marijuana; it also included alcohol and misuse of prescription drugs. They compared data for alcohol and tobacco to translate recommendations for marijuana. Their focus is on the impacts to the youth community and the long lasting impacts on their brains during the development period. He explained the level of impairment does not go after away after the usage of marijuana stops. He applauded the efforts of the Council to regulate marijuana. He offered his support and the recommendations for limiting the hours of operations; prohibiting market and distribution with logos; prohibiting coupons, free or give away and requiring scanners to verify age. He did not feel the recommendations were at odds with Amendment 64.

He addressed the option concerning marketing and promotional hats and T-shirts and noted there are studies demonstrating youth use is likely to increase when receiving those promotional items. He stated with respect to the first amendment question, the option provided language directly from the Food and Drug Administration and so there is precedence. He noted many liquor stores are opting for scanners to verify age. The City of Boulder and Boulder County do require scanners in their regulations. With respect to the recommendation for the hours of operations, the City of Boulder, Boulder County and Denver County have the same hours of operations.

COUNCIL COMMENTS

Council member Jasiak did not believe it was fair to compare the marijuana industry with the alcohol industry. She stated no one questions the dangers with alcohol, but the comparison is not valid in this case. Marijuana is a new market and as regulation moves forward, it is in response to having a void in the marketplace. Marijuana is still federally illegal, illegal in neighboring communities and illegal in neighboring states.

Council member Lipton stated it is not a matter of whether marijuana is legal or not legal in Louisville; it is to what extent the Council limits retail operations in the City. He suggested starting out very slowly and learning how it is working in and outside of the City. He felt it would be easier to be conservative and expand, if necessary, at a later date. He favored allowing the two existing medical marijuana establishments to convert, but not allowing retail marijuana in any other area in the City. He noted retail will not be allowed in the downtown area, residential areas or other commercial districts.

Mayor Muckle agreed with Council members Jasiak and Lipton and stressed marijuana is still illegal at the federal level and is a very big problem for law enforcement with respect to transporting marijuana across state borders. He supported proceeding very cautiously and supported the health department proposals. He would not contest any comments made about whether marijuana is safer than alcohol and noted alcohol can be purchased in all the fifty states. He supported the ordinance to allow the two medical marijuana establishments to convert and the health department's recommendations.

Council member Stolzmann felt it was very important to carry out the will of the voters. She felt the public wants marijuana to be regulated similarly to alcohol and felt it was Council's responsibility to do so. She requested more discussion on the dual premise licensing process. She did not understand why a wall would be required to separate the businesses and felt it was adding extra work for the applicant. Planner I Robinson pointed out the separation of businesses (wall) is a state requirement.

City Attorney Light explained the permanent regulations adopted by the state require dual operations to have physical separation. He addressed the size limitation of establishments. Medical establishments are capped at 1,800 square feet and retail is at 2,000 square feet. He asked for Council direction on the size limitation for a dual premises license. He asked if two separate businesses are operating out of the same premise, what should be the size limitation.

Council member Jasiak commented marijuana has been a discussion for almost a year. She acknowledged and thanked the constituents who have come forward. She stressed this has been a very emotional conversation. She voiced her pride in how the discussion has been conducted and the Council's response to the constituents and to the business owners. She felt it has been a good conversation and she was proud the Council can move forward with intelligent regulations.

Mayor Pro Tem Dalton asked if it should be a 2,000 square feet dual premises license or a 3,000 square feet license in order to provide the wall of separation. City Attorney Light explained a physical separation would be required if the business wanted to continue a medical marijuana operation.

Mayor Muckle supported 2,000 square feet for retail and 3,000 for dual licenses.

Council member Jasiak inquired about the size of the two establishments. Mayor Muckle stated the current medical marijuana code only allows up to 1,800 square feet.

Shaun Gindi, Compassionate Pain Management, 1116-7 W Dillon Road, Louisville, CO inquired about the purpose of a size requirement and explained it limits any expansion of his business. Planning Director Russ explained the 2,000 square feet is based on the typical retail establishments in strip shopping centers. The in-line (unanchored) average between 1,500 and 2,500 square feet and anything larger is a free standing building. A larger facility was not considered compatible with Louisville when the regulations were established.

Shaun Gindi explained he currently occupies a 1,100 square foot space and would like to move into an empty 3,500 square foot space in an in-line shopping center. He asked if relocation is prohibited in the new legislation. City Attorney Light confirmed it is prohibited.

Lynda Spangler, 1744 Garfield Avenue #103, Louisville, CO stated she is comparing marijuana to alcohol because that is how the laws are written. She explained alcohol and marijuana are completely different. She felt the use of marijuana is being considered a sin tax. She stated the community has marijuana patients and there is no such thing as synthetic pot. She noted since legalization, marijuana use in the youth population has gone down. She acknowledged there will be border issues until pot is legalized all across America. She addressed a paper published by Harvard University, which states marijuana is not associated with psychotic behavior. She requested the rights of the patients be protected.

Mayor Muckle closed the public hearing.

COUNCIL COMMENTS

Council member Keany felt the ordinance is at odds with itself by saying an establishment can be a larger size, but cannot move. He felt there should be more flexibility for a dual license.

Council member Lipton asked Planning Director Russ about the Planning Commission discussion relative to the size of the stores. Planning Director Russ stated medical marijuana stores were always 1,800 square feet, but when the retail marijuana conversation began, Council direction was for 5,000 square feet to match the land use

criteria for alcohol. Council changed the direction to match a size limitation closer to medical marijuana.

Council member Lipton inquired about the current process of enlarging the store and changing the location. Planner I Robinson stated it would require a modification of premises or change location through the Local Licensing Authority.

Council member Loo asked for clarification on change of location. City Attorney Light explained the moratorium ordinance amendment provides an opportunity for the existing medical marijuana establishments to convert to retail at their current licensed locations. The proposed ordinance does not allow changes of location.

Council member Loo agreed with Council member Keany the ordinance is in conflict with itself. She supported 4,000 square feet for a dual operation. Mayor Pro Tem Dalton was in favor 4,000 square feet for a dual license and relocating within the same shopping center (Colony Square).

Council member Lipton did not want dual establishments to fail because they are undersized, but felt the business should stay within the approximate location and area.

Council member Jasiak suggested 1,800 square feet for medical and 2,000 square feet for retail. She agreed the intent of relocating is within the current shopping center.

Mayor Muckle requested Council comments on the recommendations suggested by the health department.

Mayor Muckle and Council members Jasiak and Lipton expressed support for the health department recommendations.

Mayor Pro Tem Dalton and Council members Keany and Stolzmann expressed opposition to the health department recommendations.

Council member Stolzmann supported the establishment's location being within the land use plan; 5,000 square feet for retail marijuana.

Council member Keany questioned the distance requirement for the change of location. Planning Director Russ explained the land use does not allow marijuana establishments along McCaslin. The only in-line shopping area available to a marijuana establishment is Colony Square or across the street at Dillon and McCaslin.

Council member Jasiak requested Mr. Harmon provide background information on the prohibition of logos. Mr. Harmon explained most of the research comes from alcohol and tobacco. The promotional giveaways such as t-shirts, can be displayed near schools providing opportunities for a youth to see, correlate and thus likely to use. He stated the FDA is taking the same approach with tobacco. With respect to scanners,

there is not a lot of research, but many liquor stores are opting for scanners because it is easier to determine age and is a proven technology. Council member Lipton suggested referring the question of scanners to the Local Licensing Authority.

ORDINANCE No. 1648, SERIES 2013 - AN ORDINANCE OF THE CITY OF LOUISVILLE AMENDING THE TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR OPERATION OF RETAIL MARIJUANA ESTABLISHMENTS WITHIN THE CITY – 2nd Reading –Public Hearing

The Council discussed amendments to Ordinance No. 1648, Series 2013 and there was support for a change of location within ¼ mile of their present establishment. City Attorney Light recommended 1,320 feet. There was Council consensus.

City Attorney Light recommended a motion to adopt Ordinance No. 1648, Series 2013, with the following second reading amendments: Addition to Section 1, Sub paragraph 1: "or premises within 1,320 feet of the aforementioned premises subject to compliance with all applicable regulations". Addition of sections 3 and 4 and a related Whereas clause: which clarifies the moratorium extends to other forms of marijuana businesses claiming not to be one of the four types of establishments recognized by the constitutional amendment.

MOTION: Mayor Pro Tem Dalton moved to Ordinance No. 1648, Series 2013 on second reading, with the amendments outlined by the City Attorney, seconded by Council member Loo. Roll call vote was taken. The motion passed by a vote of 7-0.

ORDINANCE No. 1649, SERIES 2013 - AN ORDINANCE AMENDING TITLE 5 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING BUSINESS LICENSING AND OPERATIONAL REQUIREMENTS FOR RETAIL MARIJUANA ESTABLISHMENTS – 2nd Reading - Public Hearing

The Council discussed amendments to Ordinance No. 1649, Series 2013. Mayor Muckle and Council members Jasiak and Lipton supported the Health Department's recommendations, with the exception of the scanners and a closing time of 8:00 p.m. Mayor Pro Tem Dalton and Council members Stolzmann and Keany did not support the Health Department's recommendations.

MOTION: Mayor Muckle moved to approve Ordinance No. 1649, Series 2013 on second and final reading with the following amendments: 1,800 square feet for medical marijuana establishments; 2,000 square feet for retail marijuana establishments; hours of operation from 8:00 a.m. to 8:00 p.m. and the Health Department's recommended options # 2, 4 and 5, seconded by Council member Jasiak.

City Attorney Light offered two friendly amendments to the motion: 1) Addition to Sec. 5.11.080 B to add the sentence: "The maximum physical space occupied by any

medical marijuana business and retail marijuana establishment sharing premises shall never exceed three thousand eight hundred (3,800) square feet of leasable floor space".

2) Addition to Section 2 of exception phrase so as to allow change of location (underlined). "Upon the effective date of this ordinance, and until December 31, 2014, but except as provided in Ordinance No. 1648, Series 2013, no application or request for a change in location of premises shall be received, reviewed, approved, or otherwise acted upon, and any license issued pursuant to this ordinance shall be limited to use at the premises specified in the application for such license." Mayor Muckle and Council member Jasiak accepted the friendly amendments.

Council member Stolzmann offered a friendly amendment to remove Option #2. Council member Jasiak did accept the friendly amendment.

Council member Stolzmann offered an unfriendly amendment to remove Option #2, seconded by Council member Loo.

City Attorney clarified the vote on the unfriendly amendment is only for the removal of Option #2 from the main motion. Mayor Muckle clarified a yes vote removes the prohibition on the logo products.

VOTE: Roll call vote was taken on the unfriendly amendment to remove Option #2 from the motion. The motion passed by a vote of 4-3. Mayor Muckle and Council members Lipton and Jasiak voted no.

MAIN MOTION: Motion to adopt Ordinance No. 1649, Series 2013, as amended. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1650, SERIES 2013 AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE TO ADOPT REGULATIONS REGARDING RETAIL MARIJUANA ESTABLISHMENTS – 2nd Reading – Public Hearing

MOTION: Mayor Muckle moved to approve Ordinance No. 1650, Series 2013 on second reading, seconded by Mayor Pro Tem Dalton.

City Attorney offered two friendly amendments: 1) Addition to Sec. 17.16.237 C to add the sentence: "The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed three thousand eight hundred (3,800) square feet of leasable floor space"

2) Addition to Section 7 of exception phrase so as to allow change of location (underlined): "Upon the effective date of this ordinance, and until December 31, 2014, but except as provided in Ordinance No. 1648, Series 2013, no application or request for a change in location of premises shall be received, reviewed, approved, or otherwise acted

upon, and any license issued pursuant to this ordinance shall be limited to use at the premises specified in the application for such license." Mayor Muckle and Mayor Pro Tem Dalton accepted the friendly amendments.

VOTE: Roll call vote was taken. The motion passed by a vote of 7-0.

RESOLUTION No 69, SERIES 2013 – A RESOLUTION SETTING FEES FOR RETAIL MARIJUANA ESTABLISHMENTS IN THE CITY OF LOUISVILLE

MOTION: Mayor Muckle moved to approve Resolution No. 69, Series 2013, seconded by Council member Keany. Roll call vote was taken. The motion passed by a vote of 7-0.

RECESS: Mayor Muckle called for a recess at 9:15 p.m. The meeting reconvened at 9:30 p.m.

DISCUSSION – GOLF COURSE UPDATE

Mayor Muckle requested a staff presentation.

Parks and Recreation Director Stevens explained the Council packet contained an outline of the process, which will be followed to communicate with the City Council, the Golf Course Advisory Committee and the public. Staff continues to work with Landscapes Unlimited on a pre-construction and design/development services agreement, which will lead to the construction phase sometime in February. He stressed there is lot of work to be done including: prioritizing elements, coordinating with FEMA, Corp of Engineers and stream channel reconstruction or mitigation. Projects will be prioritized and the budget, capital projects, and the Golf Course Improvement Plan will be reviewed.

COUNCIL COMMENTS

Mayor Muckle requested a business plan for the City to operate the golf course. Parks and Recreation Director Stevens explained the second phase of the recovery and reconstruction of the Coal Creek Golf Course Reconstruction is the termination and transfer of resources from Western Golf Association to the City of Louisville. The third phase will be to develop a budget, a staffing plan and a marketing plan to open the golf course in the spring of 2015. He explained the revenues and expenditure projections will be analyzed and decisions will be made on what will be in-house operations and what will be contracted out.

City Manager Fleming committed to providing an outline of the business plan for the January study session.

City of Louisville
COLORADO • SINCE 1878

CITY COUNCIL COMMUNICATION
AGENDA ITEM 8C

SUBJECT: **ORDINANCE NO. 1675, SERIES 2014 – AN ORDINANCE AMENDING CHAPTER 9.76 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING PUBLIC CONSUMPTION OF MARIJUANA – 2nd READING, PUBLIC HEARING (advertised *Daily Camera* 10/26/14)**

DATE: **NOVEMBER 3, 2014**

PRESENTED BY: **MEREDYTH MUTH, PUBLIC RELATIONS MANAGER**

SUMMARY:
During the City Council's discussion of Ordinance No. 1669 on September 16, the Council asked staff to remove from that ordinance language including marijuana penalties in Chapter 8 of the Louisville Municipal Code (LMC) and place that language in Chapter 9. This language specifically relates to the use of marijuana in public places.

The use of medical and recreational marijuana is legal under Article XVIII, §§ 14 and 16 of the Colorado Constitution, but the public use of marijuana remains unlawful. Chapter 9.76 already contained language related to the outdoor consumption of marijuana. The attached ordinance adds language specifically listing indoor areas "to which the public is invited or to which the public is permitted."

> *For purposes of this Chapter, "places of business to which the public is invited in or in which the public is permitted," shall include but not be limited to, retail food production or marketing establishments, restaurants, taverns, banks, commercial establishments, theatres, waiting rooms, reception areas, meeting rooms, educational facilities, libraries, recreational facilities, health care facilities, facilities providing live music or sporting events, and public transportation facilities.*

The City Attorney's office also added a section prohibiting the consumption of marijuana in retail marijuana stores, medical marijuana centers, retail marijuana products manufacturing facilities and medical marijuana infused products manufacturing facilities. Consumption of marijuana in these areas is prohibited by state law, and the City has similar provisions in Title 5 (regarding the licensing of these businesses). However, people who want to understand the potential criminal offenses related to marijuana consumption may turn solely to Title 9, which is the City's criminal code, without realizing that consumption is also addressed in Title 5.

The proposed ordinance specifically notes marijuana may be consumed in a private residence by patients or persons twenty-one years of age or older in accordance with Sections 14 and 16 of Article XVIII of the Colorado Constitution and other applicable laws.

FISCAL IMPACT:
None.

RECOMMENDATION:
Adopt Ordinance No. 1675, Series 2014.

ATTACHMENT(S):
1. Ordinance No. 1675, Series 2014

ORDINANCE NO. 1675
SERIES 2014

AN ORDINANCE AMENDING CHAPTER 9.76 OF THE LOUISVILLE MUNICIPAL CONCERNING PUBLIC CONSUMPTION OF MARIJUANA

WHEREAS, Article XVIII, § 16 of the Colorado Constitution, referred to as Amendment 64, was approved by Colorado voters in November 2012; and

WHEREAS, Amendment 64 legalized the private use of marijuana for persons twenty-one years of age or older; and

WHEREAS, the City Council previously enacted Chapter 9.76 of the Louisville Municipal Code, which among other things, prohibits the public consumption of marijuana; and

WHEREAS, the City Council desires to amend Chapter 9.76 to further delineate the places in which marijuana consumption is prohibited;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 9.76.010 (Definitions) of Louisville Municipal Code is hereby by amended by the addition of the following definition, which definition shall be inserted in alphabetical order in said Section:

> *Common area* shall mean a lobby, hallway, elevator, restroom, or other area where the public is likely to gather in close proximity.

Section 2. Section 9.76.030 of Louisville Municipal Code is hereby by amended to read as follows (words to be deleted are ~~stricken through~~; words to be added are underlined):

Sec. 9.76.030. Public consumption of marijuana prohibited.

> A. It shall be unlawful for any person to consume or use marijuana in any place that is commonly or usually open to the general public, being either public or private property, and including but not limited to, parks, open space, trails, sidewalks, streets, public rights-of-way, common areas and places of business ~~open to the general~~ to which the public is invited in or in which the public is permitted. For purposes of this Chapter, "places of business to which the public is invited in or in which the public is permitted," shall include but not be limited to, retail food production or marketing establishments, restaurants, taverns, banks, commercial establishments, theatres, waiting rooms, reception areas, meeting rooms, educational facilities, libraries, recreational facilities, health care facilities, facilities providing live music or sporting events, and public transportation facilities.

B. It shall be unlawful for any person to consume marijuana on the premises of a medical marijuana center, medical marijuana-infused products manufacturing facility, retail marijuana store or retail marijuana products manufacturing facility, as defined in Sections 5.10.020 and 5.11.020 of this Code, respectively.

C. Nothing in this Section shall be construed to prohibit the use or consumption of medical marijuana or marijuana by patients or persons twenty-one (21) years of age or older in a private residence in full compliance with Sections 14 and 16 of Article XVIII of the Colorado Constitution and other applicable laws.

Section 2. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Any person convicted of violating this ordinance may be punished by a fine of not more than $2,650.00, as shall be adjusted for inflation pursuant to C.R.S. § 13-10-113, or by imprisonment not to exceed one year, or by both such fine and imprisonment; except that a child under the age of eighteen years of age shall not be confined in a jail, lockup or other place used for the confinement of adult offenders but may be held in a juvenile detention facility as provided in C.R.S. § 31-10-113.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 21st day of October, 2014.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

APPROVED AS TO FORM:

_____
Light Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 3rd day of October, 2014.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Nancy Varra, City Clerk

RESOLUTION No. 69, SERIES 2015

MOTION: Council member Lipton moved to approve Resolution No. 69, Series 2014, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

RESOLUTION No. 70, SERIES 2015

MOTION: Council member Lipton moved to approve Resolution No. 70, Series 2014, seconded by Council member Keany. Roll call vote was taken. The motion carried by a vote of 7-0.

RESOLUTION No. 71, SERIES 2015

MOTION: Mayor Pro Tem Dalton moved to approve Resolution No. 71, Series 2014, seconded by Council member Lipton. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1675, SERIES 2014 – AN ORDINANCE AMENDING CHAPTER 9.78 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING PUBLIC CONSUMPTION OF MARIJUANA – 2nd Reading - Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light read Ordinance No. 1675, Series 2014.

Public Relations Manager Muth explained during the City Council's discussion of Ordinance No. 1669 on September 16, 2013, the Council asked staff to remove the language including marijuana penalties in Chapter 8 of the Louisville Municipal Code (LMC) and place that language in Chapter 9. This language specifically relates to the use of marijuana in public places. The use of medical and recreational marijuana is legal under Article XVIII, §§ 14 and 16 of the Colorado Constitution, but the public use of marijuana remains unlawful. Chapter 9.76 already contained language related to the outdoor consumption of marijuana. The ordinance adds language specifically listing indoor areas "to which the public is invited or to which the public is permitted."

> *For purposes of this Chapter, "places of business to which the public is invited in or in which the public is permitted," shall include but not be limited to, retail food production or marketing establishments, restaurants, taverns, banks, commercial establishments, theatres, waiting rooms, reception areas, meeting rooms, educational facilities, libraries, recreational facilities, health care facilities, facilities providing live music or sporting events, and public transportation facilities.*

The City Attorney's office also added a section prohibiting the consumption of marijuana in retail marijuana stores, medical marijuana centers, retail marijuana products manufacturing facilities and medical marijuana infused products manufacturing facilities.

Consumption of marijuana in these areas is prohibited by state law, and the City has similar provisions in Title 5. However, people who want to understand the potential criminal offenses related to marijuana consumption may turn solely to Title 9, which is the City's criminal code, without realizing consumption is also addressed in Title 5.

The proposed ordinance specifically notes marijuana may be consumed in a private residence by patients or persons twenty-one years of age or older in accordance with Sections 14 and 16 of Article XVIII of the Colorado Constitution and other applicable laws. Staff recommended the City Council adopt Ordinance No. 1675, Series 2014 on second and final reading.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

MOTION: Council member Lipton moved to approve Ordinance No. 1675 Series 2014 on second and final reading, seconded by Council member Loo. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1676, SERIES 2014 – AN ORDINANCE ADOPTING A CITY POLICY ADDRESSING DEFENSE AND INDEMNIFICATION OBLIGATIONS TO CITY OFFICIALS AND EMPLOYEES – 2nd Reading –Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light read Ordinance No. 1676, Series 2014.

Mayor Muckle requested a staff presentation.

City Attorney Light explained the City recognizes a need to encourage elected and appointed officials and employees to perform their duties effectively and efficiently. Also, under law the City is required to protect its officials and employees against claims arising during the performance of duties and within the scope of employment, so long as the conduct is not willful and wanton and other requirements are met. The ordinance would codify a City policy regarding defense and indemnification obligations to City officials and employees. Doing so will make clear the extent of the City's responsibilities, and establish the circumstances under which the City will pay or reimburse defense costs for claims and legal proceedings brought against City officials and employees.

The Legal Review Committee reviewed this issue at its August and September meetings, including review of sample policies from other cities. The City Attorney's August 15, 2014 memo to the Committee provided further background on the liability and coverage issues addressed through the proposed ordinance. The proposed ordinance is modeled closely after the City of Fort Collins ordinance, with some additions specific to Louisville. Section 2.06.040 establishes a procedure under which the City will pay or reimburse defense costs for defense of a complaint under the City

CITY COUNCIL COMMUNICATION
AGENDA ITEM 3

SUBJECT: **DISCUSSION/DIRECTION – MARIJUANA REGULATIONS**

DATE: **FEBRUARY 27, 2017**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**
ROB ZUCCARO, DIRECTOR OF PLANNING & BUILDING SAFETY

SUMMARY:
As a part of the 2017 Work Plan, the City Council asked to evaluate if there is a need for changes or updates to the City's marijuana regulations.

Current Regulations:
The City currently allows for four types of marijuana licenses; each requires City and State approval. Local licenses must be approved by the Local Licensing Authority.

- Retail Marijuana Store License
- Retail Marijuana Testing Facility License
- Medical Marijuana Center License
- Medical Marijuana-Infused Products Manufacturing License

Other regulations include:

- A marijuana business may not be located within 1,320 feet of: 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 child care facility;
- May not be in residential, agriculture, office, mixed use, or commercial-neighborhood zoned districts
- May not be in downtown
- A medical center limited to 1800 square feet
- A retail store limited to 2000 square feet
- A shared retail/medical store limited to 3800 square feet
- Hours of operation limited to 8 am – 10 pm
- Limitations on the language and design of signage
- No on-site consumption
- Limit of four retail stores allowed in the City

The City currently has two stores. One is a retail only store and one store is a combined retail and medical facility. From a City perspective, both have complied with all of the regulations. They follow the licensing rules, pay their sales tax, and the Police Department has not had problems with the stores or their clientele.

Privacy rules prohibit the City from reporting the amount of sales tax the stores generate.

Possible Changes:
The municipalities surrounding Louisville have a variety of different regulations. Superior and Broomfield do not allow marijuana at all while Lafayette, Boulder, and Boulder County allow all types of licenses including retail and medical sales, production, and cultivation. In addition to the City's current allowance for retail and medical scales, the City could consider allowing cultivation and production of marijuana in certain areas. The City's industrially zoned areas would be the most appropriate location to allow these uses. However, consideration of negative impacts such as odor, security and conflicts with other uses in and around the City's industrial areas should be considered. The City's current industrial areas are considered "light" industrial, and staff believes that such uses would be more appropriate in a "heavy" industrial area or more rural area further away from residential and recreational areas. Thus, staff recommends that the City maintain its current restriction on cultivation and production. However, if Council desires further consideration, staff could seek input from the Colorado Tech Center Owners Association and conduct further research on cultivation for future discussion.

Currently, the City has one combined medical/retail facility (Ajoya). It is limited to 3800 sf, combined between the retail and medical sales. The owners have sectioned off their store to meet the space requirement but have space they are leasing they are not allowed to use. They have asked the City to consider allowing them to expand so they can use the additional square footage they are paying to rent and to not limit the allowed area by retail and medical categories. As noted in the attached comparison table, Boulder limits dispensaries to 3,000 square feet, while Boulder County and Lafayette to not have size restrictions. Possible benefits of limiting the size of a retail operation could include limiting any possible negative impacts from the business, such as odor or security concerns. However, staff is not aware of any issues in Boulder County or Lafayette where there are currently no restrictions on the size of the business and recommends consideration of raising or eliminating the area restriction.

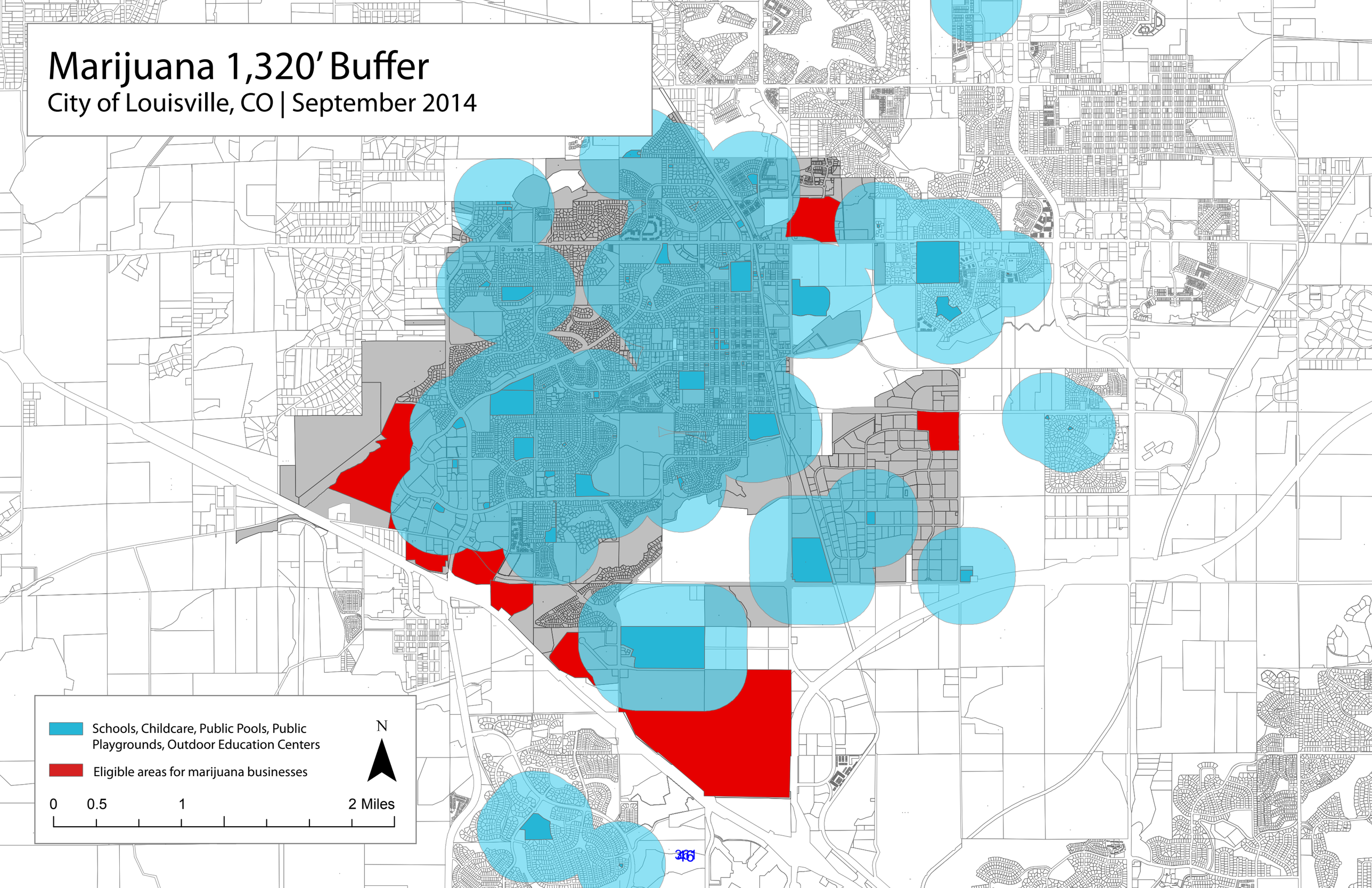
FISCAL IMPACT:
Dependent on direction.

RECOMMENDATION:
Discussion/Direction.

ATTACHMENT(S):
1. 1320 foot buffer map
2. Current Medical Regulations
3. Current Retail Regulations
4. Comparison Chart of Marijuana Regulations with Other Jurisdictions
5. Comparison of liquor and marijuana regulations in the state
6. Link to recent Colorado Public Radio piece on marijuana cultivation energy use

Marijuana 1,320' Buffer

City of Louisville, CO | September 2014



Chapter 5.10 - MEDICAL MARIJUANA[1]

Sec. 5.10.010. - Purpose.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 14 of the Colorado Constitution and protect the rights of patients and their primary caregivers while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:
   1. Requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana business might have on surrounding properties and persons;
   2. Regulating the conduct of persons owning, operating and using medical marijuana businesses in order to protect the public health, safety and welfare; and
   3. Regulating the location and operation of medical marijuana businesses.

B. By adoption of this chapter, the city council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 20 means that certain voter initiated amendment to the Colorado Constitution adopted November 7, 2000, which added Section 14 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Cultivation means the process by which a person grows a marijuana plant.

Dwelling unit shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, a creditor interest, or a directorship or officership.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or
3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located.

Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center or medical marijuana-infused products manufacturer, or an ongoing nuisance condition emanating from or caused by the medical marijuana center or medical marijuana-infused products manufacturer.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a medical marijuana business pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means that portion of a property, building, or other structure which is owned or in possession of the licensee and which is used for the purpose of storing, processing, displaying for sale, selling or otherwise distributing medical marijuana or other products by a licensee.

Local licensing authority means the City of Louisville local licensing authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Medical marijuana means marijuana that is grown and sold pursuant to the provisions of this chapter and for a purpose authorized by Section 14 of Article XVIII of the Colorado State Constitution.

Medical marijuana business shall mean any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.

Medical marijuana center means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-402 and this chapter that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.

Medical marijuana delivery business means a medical marijuana business that delivers medical marijuana to a patient or primary caregiver at a location other than a licensed premises.

Medical marijuana-infused products manufacturer means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-404 and this chapter.

Medical marijuana paraphernalia or *paraphernalia* means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

Minor patient means a patient less than 18 years of age.

Patient means a person who has a debilitating medical condition as defined in Amendment 20.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises means the legal parcel of property upon which a medical marijuana center or medical marijuana-infused product manufacturer is located.

Primary caregiver means a natural person, other than the patient and the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Registry identification card means that document, issued by the state, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary caregiver, if any has been designated.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana in this state, pursuant to C.R.S. § 12-43.3-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 20, C.R.S. § 12-43.3-101 et seq., C.R.S. § 25-1.5-106, and the rules and regulations promulgated by the state licensing authority, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.030. - Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:
   1. *A medical marijuana center license.* A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-402 to registered patients or primary caregivers, but is not a primary caregiver.
   2. *A medical marijuana-infused products manufacturing license.* A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-404.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.040. - Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to Chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of medical marijuana businesses in the City of Louisville, including without limitation all such powers set forth in this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.
B. The local licensing authority may, consistent with the Code and applicable provisions of state law, grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administrat licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.050. - License requirements; exemptions.

A. Except as provided in subsection B. of this section, it shall be unlawful for any person to establish or operate a medical marijuana business in the city without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.

B. Primary caregivers who cultivate, possess or dispense medical marijuana to no more than five patients, and patients who cultivate or possess medical marijuana for their own medical use, are not considered medical marijuana businesses and are exempt from the licensing requirements of this chapter, but shall be subject to the following limitations:

1. All such cultivation shall be conducted entirely within a building or other fully enclosed structure.
2. Not more than 12 marijuana plants may be cultivated or kept at the same parcel of property, of which no more than six plants may be mature.
3. In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution and other applicable state laws and regulations.

Notwithstanding the above, the five patient limit shall not apply to primary caregivers who have been authorized by the state health agency to serve additional patients in exceptional circumstances in accordance with C.R.S. § 25-1.5-106(8).

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.060. - Application and fee.

A. A person seeking a license or renewal of a license issued pursuant to this chapter shall submit an application to the local licensing authority on forms provided by the city. At the time of application for a new license, the applicant shall pay a nonrefundable application fee in the amount as established by resolution of the city council to defray the costs incurred by the city for processing the application. A fee in the amount established by resolution of the city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, employees, and other persons required to be qualified pursuant to this chapter. In addition, the applicant shall provide one of the following forms of identification:

1. An identification card issued in accordance with C.R.S. § 42-2-302;
2. A valid state driver's license;
3. A valid driver's license containing a picture issued by another state;
4. A military identification card; or
5. A valid passport.

B. The applicant shall also provide the following information on a form approved by, or acceptable to, the

city, which information shall be required for the applicant, the proposed manager and employees of the medical marijuana business, and all persons having any financial interest in the medical marijuana business that is the subject of the application:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. An acknowledgement and consent that the city will conduct a background investigation, including a criminal history check, and that the city will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of or relating to deposits, withdrawals, balances and loans;
4. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
5. The name and complete address of the proposed medical marijuana business;
6. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or medical marijuana-infused products manufacturer;
7. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
8. Evidence of a valid sales tax license for the business;
9. If the medical marijuana center will be providing medical marijuana in edible form, evidence of any food establishment license or permit that may be required by the state;
10. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the medical marijuana business, loading zones and all areas in which medical marijuana will be stored, processed or dispensed;
11. A comprehensive business plan for the medical marijuana business which shall contain, without limitation, the following:
    a. A security plan meeting the requirements of section 5.10.160 of this chapter;
    b. A description of all products to be sold;
    c. A signage plan that is in compliance with all applicable requirements of section 5.10.150 of this chapter, this Code and the commercial development design standards and guidelines; and
    d. A plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations; and
12. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center or medical marijuana-infused products manufacturer operation, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority shall circulate the app all affected service areas and departments of the city to determine whether the application is in full complia applicable laws, rules and regulations.

E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of C.R.S. §§ 12-43.3-302 and 12-43.3-303. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by C.R.S. § 12-43.3-303(4).

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 6, 6-7-2011)

Sec. 5.10.070. - Location criteria.

A. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located within 1,320 feet of another medical marijuana center or medical marijuana infused product manufacturer.

B. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located:

1. Within 1,320 feet of: 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 child care facility;
2. Upon any city property;
3. In a dwelling unit or any residentially zoned districts; or
4. Within the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts.

C. No licensed premises for a medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 1,800 square feet of leasable floor space, nor shall such licensed premises ever exceed 1,800 square feet of leasable floor space.

D. No medical marijuana center or medical marijuana-infused product manufacturer shall operate as an

outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A, B and C of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A, B and C of this section to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.080. - Persons prohibited as licensees.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.3-307 and the rules and regulations promulgated by the State of Colorado.

B. No license provided by this chapter shall be issued to, held by, or renewed by any of the following:

1. A person until the annual fee therefor has been paid;
2. A person whose criminal history indicates that he or she is not of good moral character;
3. A corporation, if the criminal history of any of its officers, directors, or stockholders indicates that the officer, director, or stockholder is not of good moral character;
4. A partnership, association, limited liability company, or other entity, if the criminal history of any of its managers or officers or person having any financial interest in such entity indicates he or she is not of good moral character;
5. A licensed physician making patient recommendations;
6. A person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character and reputation satisfactory to the respective licensing authority;
7. A person under 21 years of age;
8. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to:
   a. Provide a surety bond or file any tax return with a taxing agency;
   b. Pay any taxes, interest, or penalties due;
   c. Pay any judgments due to a government agency;
   d. Stay out of default on a government-issued student loan;
   e. Pay child support; or
   f. Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency, or an outstanding delinquency for child support.
9. A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, or use of a controlled substance;
10. A person who employs another person at a medical marijuana business who has not passed a criminal history record check;
11. A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

12. A person whose authority to be a primary caregiver has been revoked by the state health agency;
13. A person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or
14. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that, for a person who submits an application for licensure pursuant to this chapter by May 1, 2011, this requirement shall not apply to that person if the person was a resident of the State of Colorado on December 15, 2009.

C. In investigating the qualifications of an applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license.

D. As used in subsection C of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana center license or medical marijuana-infused product manufacturer license, the applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the local licensing authority. The local licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The local licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for local licensing purposes may request that the fingerprints on file be used. The local licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a local license pursuant to this chapter. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.090. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana center or medical marijuana-infused product manufacturer to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and

may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. An application for the renewal of an existing license shall be made to the local licensing authority not more than 60 days and not less than 45 days prior to the date of expiration of the license. No application for renewal shall be accepted by the local licensing authority prior to or after such date except as provided is subsection C of this section. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee at the time the renewal application is submitted in the amount as established by resolution of the city council. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 7, 6-7-2011)

Sec. 5.10.100. - Annual license fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual license fee in an amount as established by resolution of the city council. The annual license fee may be refunded if the application is denied.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 8, 6-7-2011)

Sec. 5.10.110. - Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.10.130.C.

B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this Chapter 5.10 (including, but not limited to, the location criteria set forth in section 5.10.070), C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana center or medical marijuana-infused product manufacturer.

D. Any person delivering medical marijuana in the city on behalf of a medical marijuana business shall have in his or her possession a true and accurate copy of the license held by said business and shall, upon request by any police officer of the city or by any other duly authorized law enforcement officer, produce the same for inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1642-2013, § 1, 9-3-2013)

Sec. 5.10.120. - Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing

authority. All managers must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements described in section 5.10.080 of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.130. - Change in manager, employee; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers or employees to the local licensing authority within 30 days after the change. Such report shall include all information required for managers and employees under section 5.10.060 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken to qualify new managers and employees may be charged.

B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana business that is the subject of the license. Except as set forth in subsection C. of this section, such report must be filed with the local licensing authority within 30 days after any such transfer or change. A report shall be required for any transfer of the capital stock of any corporation regardless of size. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history contrary to the requirements described in section 5.10.080 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken pursuant to this chapter may be charged.

C. For a transfer of ownership, the license holder shall apply to the local licensing authority. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this Chapter 5.10, C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.3-309.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the rules and regulations promulgated by the state licensing authority. Each application for modification of premises shall be accompanied by an application fee in the amount as established by resolution of the city council.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 9, 6-7-2011; Ord. No. 1642-2013, § 2, 9-3-2013)

Sec. 5.10.140. - Hours of operation.

Medical marijuana centers may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1718-2016, § 1, 5-3-2016)

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana center or medical marijuana-infused products manufacturer shall comply with all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.160. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all medical marijuana centers and medical marijuana-infused product manufacturers shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by C.R.S. § 12-43.3-101 et seq. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.170. - Required notices.

A. There shall be posted in a conspicuous location in each medical marijuana center and medical marijuana-infused product manufacturer a legible sign containing warnings that:
    1. The possession, use or distribution of marijuana is a violation of federal law;
    2. The possession, use or distribution of marijuana for nonmedical purposes is a violation of state law;
    3. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
    4. No one under the age of 18 years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state registry card for such minor patient.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.180. - Cultivation and growing by licensees.

The cultivation and growing of marijuana plants is prohibited within the City of Louisville, except as permitted under subsection 5.10.050.B of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.190. - Sale of edible products.

A. Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes.

B. Any food products sold by a medical marijuana center shall either be inspected by an agency of the Colorado Department of Public Health and Environment or, if no such inspection has occurred, shall contain a label indicating the lack of any such inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.200. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that the marijuana is intended for use solely by the patient to whom it is sold and that any resale or redistribution of the marijuana to any person other than a patient or primary caregiver is a criminal violation.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana center or medical marijuana-infused product manufacturer is prohibited.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.220. - Prohibited acts.

A. It shall be unlawful for any licensee to:

1. Employ any person to manage a medical marijuana center or medical marijuana infused-product manufacturer facility or to dispense medical marijuana who is not at least 21 years of age or who has a criminal history contrary to the requirements described in section 5.10.080 of this chapter;
2. Sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient or primary caregiver;
3. Sell, give, dispense or otherwise distribute to any patient or primary caregiver more than two ounces of any usable form of medical marijuana within any seven-day period of time or in such other quantities allowed pursuant to Amendment 20;
4. To maintain, sell, dispense or otherwise distribute mature medical marijuana plants at any medical marijuana center;
5. Purchase or otherwise obtain from another licensed medical marijuana center in Colorado more medical marijuana than permitted by state law or regulation;
6. Permit on the licensed premises any person other than:
   a. The licensee, the licensee's manager, employees and financial interest holders;
   b. A patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20;
   c. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card;

d. A primary caregiver in possession of his or her patient's registry identification card or its function Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the pat caregiver, as submitted to the Colorado Department of Public Health and Environment;

e. A person whose physical presence and assistance are necessary to assist a patient;

f. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business;

g. Law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;

7. Permit the sale or consumption of alcohol beverages on the licensed premises; or

8. Cultivate or permit the cultivation of medical marijuana on the licensed premises.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.230. - Visibility of activities; control of emissions.

A. All activities of medical marijuana centers and medical marijuana infused product manufacturers, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a center or infused product manufacturer so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana center or infused product manufacturer, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.240. - Disposal of marijuana byproducts.

The disposal of medical marijuana, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.250. - Deliveries of medical marijuana.

Deliveries of medical marijuana and paraphernalia by licensees operating a medical marijuana delivery business, whether or not such business is conducted in conjunction with a city-licensed medical marijuana center or medical marijuana-infused product manufacturer, shall be made only to patients and primary caregivers and only in the amounts specified in subsection 5.10.220.A.3 of this chapter. All such deliveries shall be subject to the record keeping requirements contained in section 5.10.270 of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.260. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all medical marijuana, paraphernalia and other tangible personal property sold, dispensed, or purchased at the medical marijuana center, in accordance with the requirements of Chapter 3.20 of this Code.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.270. - Required books and records.

A. Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana business in any usable form. Such record shall include the following:
   1. The identity of the seller and purchaser involved in each transaction;
   2. The total quantity of, and amount paid for, the medical marijuana; and
   3. The date, time and location of each transaction.
B. Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:
   1. The patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;
   2. The form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:
      a. An identification card issued in accordance with C.R.S. § 42-2-302,
      b. A valid state driver's license;
      c. A valid driver's license containing a picture issued by another state;
      d. A military identification card;
      e. A valid passport; or
      f. An alien registration card.
   3. A registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.
C. Information provided to the licensee by a patient or primary caregiver under the provisions of this section need not include any information regarding the patient's physician or medical condition.
D. All transactions shall be kept in a numerical register in the order in which they occur.
E. All records required to be kept under this chapter must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three years after the date of the transaction. Information inspected by the city police department or other city departments pursuant to this chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.280. - Inspection of licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where medical marijuana is stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

D. Nothing in this section or section 5.10.070 of this chapter shall require the disclosure of information contrary to the provisions of federal or state law or Amendment 20 which are intended to protect the privacy of patients.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.290. - Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.300. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.310. - No city liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the medical marijuana business for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana business that is the subject of the license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.320. - Other laws remain applicable.

A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional or stricter regulation shall control the establishment or operation of any medical marijuana business in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the state or federal government prohibits the sale or other distribution of marijuana through medical marijuana centers or medical marijuana-infused products manufacturers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.330. - Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Chapter 5.11 - RETAIL MARIJUANA

Sec. 5.11.010. - Purpose; relationship with the Colorado retail marijuana code.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 16 of the Colorado Constitution while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that retail marijuana establishments be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a retail marijuana establishment might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using retail marijuana establishments in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of retail marijuana establishments.

B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

C. Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, ordinance, rule or regulation, the more restrictive provision shall control.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 64 means that certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added Section 16 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license, license renewal, or other licensing action pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Retail Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.

Cultivation means the process by which a person grows a marijuana plant.

Division means the Marijuana Enforcement Division.

Dwelling unit shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, or a directorship or officership.

Good cause , for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any applicable state or local law, rules, or regulations;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment; or
4. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a retail marijuana establishment pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to manufacture, distribute, sell, or test retail marijuana and retail marijuana products in accordance with this chapter and all applicable laws, rules and regulations.

Local licensing authority means the City of Louisville Local Licensing Authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories mean any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana club shall mean a place not used for residential purposes where individuals gather to consume, grow, distribute or otherwise use marijuana or marijuana products for medical or personal use, regardless of whether such place calls itself private or public or charges an admission, membership or similar fee. A medical marijuana business or retail marijuana establishment with valid state and local licenses shall not constitute a marijuana club.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that person does not include any governmental organization.

Premises means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

Public or private elementary, middle, junior high, or high school means existing public or private elementary, middle, junior high, or high schools and public or private elementary, middle, junior high, or high school sites designated as a use permitted by right on a planned community general development plan that has been granted approval by the city council on or before the date an application for a retail marijuana establishment license is received by the city.

Public playground means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Secretary means the secretary of the local licensing authority or such person's designee.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this state, pursuant to C.R.S. § 12-43.4-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 64, the Colorado Retail Marijuana Code, and the rules and regulations promulgated thereunder, as in effect from time to time, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1677-2014, § 1, 11-18-2014)

Sec. 5.11.030. - Classes and number of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-402 and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-405 and any related rules and regulations.

B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.040. - Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of retail marijuana establishments in the City of Louisville, including without limitation all such powers set forth in this Code, the Colorado Retail Marijuana Code, and all related rules and regulations, as from time to time amended.

B. The local licensing authority may grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section 5.08.130 of this Code, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.050. - License requirements.

It shall be unlawful for any person to establish or operate a retail marijuana establishment in the city without first having obtained a license for such business from the state and local licensing authorities. Such licenses shall be kept current at all times, and the failure to maintain current licenses shall constitute a violation of this section.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.060. - Screening and response to state license applications.

A. Upon receipt of an application from the state licensing authority for a retail marijuana license, the secretary of the local licensing authority shall:

1. Initially determine, in consultation with the planning and building safety department,

whether or not the proposed location complies with any and all zoning and land use laws of the city and any and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this chapter. If the secretary makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this Code, the secretary shall notify the state licensing authority in writing that the application is disapproved by the city. The failure of the secretary to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority or the secretary from determining that the proposed license is in violation of any zoning law or other restriction set forth in this Code, and disapprove the issuance of a local license on this basis.

2. For any application that is not disapproved as provided in subsection 1, the secretary shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this chapter, after which the secretary will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.070. - Local license procedure.

A. Applications for local licenses shall be made on forms provided by the division and shall include all materials required by the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder.

B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;

4. The name and complete address of the proposed retail marijuana establishment;
5. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
6. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
7. Evidence of a valid sales tax license for the business;
8. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entryways and exits to the retail marijuana establishment, loading zones and all areas in which retail marijuana or retail marijuana products will be stored, processed or dispensed;
9. A comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:
   a. A security plan meeting the requirements of section 5.11.170;
   b. A description of all products to be sold;
   c. A signage plan that is in compliance with all applicable requirements of section 5.11.160, this Code and the applicable design standards and guidelines; and
10. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority or his or her designee shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter, the Retail Marijuana Code, and any applicable state or

local rule or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until a state license has been issued and the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by this chapter.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.080. - Location criteria; co-location.

A. No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 1,320 feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. Upon any city property; or
2. In a dwelling unit or any residentially zoned districts; or
3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or
4. Within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.

B. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 2,000 square feet of leasable floor space, nor shall such licensed premises ever exceed 2,000 square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 3,800 square feet of leasable floor space.

C. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

D. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in

subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

E. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
3. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.090. - Persons prohibited as licensees; background checks.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.4-306 and the rules and regulations promulgated by the State of Colorado.

B. In investigating the qualifications of an applicant, licensee, owner, or manager of a retail marijuana establishment, the local licensing authority shall make a finding and determination as to the good moral character and criminal history of such persons in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. In so doing, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the state licensing authority or may, in its sole discretion, make its own findings.

C. The city shall not be required to perform a criminal background check if the state licensing

authority has already performed a criminal background check or may, in its sole discretion, perform its own background check. In such case, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license. If the city performs the criminal background check, a fee in the amount established by resolution of city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, and any other persons required to be qualified pursuant to the Colorado Retail Marijuana Code, this chapter, and any related rules and regulations. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.100. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each retail marijuana establishment to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee in the amount established by city council by resolution to the local licensing authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

D. The local licensing authority may deny a renewal application for good cause pursuant to section 5.11.260.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.110. - Annual operating fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of the city council. The annual operating fee may be refunded if the application is denied.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.120. - Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.11.140.C.
B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this chapter 5.11 (including, but not limited to, the location criteria set forth in section 5.11.080), the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.
C. Each license shall be continuously posted in a conspicuous location at the licensed premises of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.130. - Management of licensed premises; employees.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers and employees must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements of the Colorado Retail Marijuana Code or any rules or regulations promulgated thereunder.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.140. - Change in manager; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers to the local licensing authority within seven days after the change.
B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the

subject of the license and receive approval prior to any transfer or change pursuant to subsection C. of this section. A report is required for transfers of capital stock of any corporation regardless of size.

C. For a transfer of ownership, the license holder shall apply to the state and local licensing authorities. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this chapter 5.11, the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.4-308.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the state and local licensing authorities. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. Each application for modification of premises shall be accompanied by an application fee in amount established by resolution of the city council.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.150. - Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1718-2016, § 2, 5-3-2016)

Sec. 5.11.160. - Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of title 17 of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder. In addition, all signage of the retail marijuana establishment, including but not limited to temporary signage, shall contain only the business name and trademark of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.170. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all retail marijuana establishments shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Retail Marijuana Code. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.180. - Cultivation, growing, and manufacturing.

The cultivation and growing of marijuana plants and the manufacturing of retail marijuana products is prohibited within the City of Louisville, except as permitted for nonretail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the city a marijuana cultivation facility or a retail marijuana products manufacturing facility.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.190. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.200. - Onsite consumption of retail marijuana.

The consumption of marijuana or marijuana products on or within the licensed premises of a retail marijuana establishment is prohibited.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.210. - Prohibited acts.

A. It shall be unlawful for any licensee to:

1. Violate or fail to comply with any provision of Amendment 64, the Colorado Retail

Marijuana Code, any rules and regulations adopted thereunder, or any applicable state or local law, ordinance, rule or regulation.

2. To allow marijuana or marijuana products to be consumed upon its licensed premises.
3. To use advertising material that is misleading, deceptive, or false or that is designed to appeal to minors.
4. To sell retail marijuana or retail marijuana products to a person under 21 years of age or to a person who does not present a government issued identification at the time of purchase.
5. To sell more than a quarter of an ounce of retail marijuana or more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of the State of Colorado.
6. To have on the licensed premises any retail marijuana, retail marijuana products, or marijuana paraphernalia that shows evidence of the marijuana or marijuana product having been consumed or partially consumed.
7. Distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution center.
8. Distribute or allow the distribution of any marijuana or marijuana product without charge within a retail marijuana establishment or any place open to the public for purpose of promotion or advertising.
9. Distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana or marijuana product either free or at a discount.

B. It shall be unlawful for a retail marijuana store:

1. To sell or give away any consumable product, including but not limited to, cigarettes, alcohol, or edible products that do not contain marijuana (e.g., soda, candy, and baked goods).
2. To sell retail marijuana or retail marijuana products over the internet or to deliver marijuana or marijuana products to a person not physically present in the licensed premises.

C. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the Colorado Retail Marijuana Code, and this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.220. - Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing,

displaying, selling and storage, shall be conducted indoors.

B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.230. - Disposal of marijuana byproducts.

The disposal of retail marijuana, byproducts and marijuana accessories shall be done in accordance with the Colorado Retail Marijuana Code and any other applicable state and local laws, ordinances and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.240. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all retail marijuana, retail marijuana products, marijuana accessories and other tangible personal property sold, dispensed, used or purchased at the retail marijuana establishment, in accordance with the requirements of chapter 3.20 of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.250. - Inspection of books and records and licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where retail marijuana or retail

marijuana products are stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.260. - Nonrenewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.265. - Marijuana clubs prohibited.

The establishment or operation of a marijuana club is prohibited in all zoning districts in the City.

(Ord. No. 1677-2014, § 2, 11-18-2014)

Sec. 5.11.270. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, owner, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.280. - No city liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the

city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the retail marijuana establishment for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.290. - Other laws remain applicable.

A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for nonrenewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the state or federal government prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.300. - Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

(Ord. No. 1649-2013, § 1, 12-17-2013)

COMPARISON OF MARIJUANA REGULATIONS IN AREA JURISDICTIONS

	Louisville	Boulder	Boulder County	Lafayette	Broomfield	Superior
Retail Sales	Allow	Allow	Allow	Allow	COMPLETE BAN	COMPLETE BAN
Medical Sales	Allow	Allow	Allow	Allow		
Retail Product Manufacturing		Allow	Allow	Allow		
Medical Product Manufacturing	Allow	Allow	Allow	Allow		
Retail Marijuana Testing Facility	Allow	Allow	Allow	Allow		
Medical Marijuana Testing Facility		Allow	Allow	Allow		
Retail Cultivation		Allow	Allow	Allow		
Medical Cultivation		Allow	Allow	Allow		
Marijuana Research & Development		Allow	Allow	Allow		
Distance Requirement	1320 Feet	1000 Feet	1000 feet	500 - 1000 feet		
Limit on # of Retail Stores	4	None	None	3		
Geographic area limitations	Not allowed downtown	Not allowed in mixed use buildings where there is a residence in the building, or on the ground floor of the Downtown BID district. Don't allow more than 3 MJ businesses within 500 feet of each other.	None	500 - 800 ft setbacks from certain streets		
Square Footage Restrictions	Medical center is limited to 1800 sf; retail store is limited to 2000 sf; shared retail/ medical is limited to 3800 sf.	Dispensaries must be in personal services zones and may not be larger than 3,000 square feet. Grows must be in light industrial zones and may not be larger than 15,000 sq feet. MIPs must be in manufacturing or light industrial and may not be larger than 15,000 sq feet.	None	None		

COMPARISON OF MARIJUANA TO LIQUOR REGULATIONS

	Marijuana Regs	Liquor Regs
Land Use and Other Regulations	Must be 1320 feet from any daycare or school. This is set by municipality.	Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.
	New stores may not be within 1320 feet of another store. This is set by municipality.	New retail stores may not be within 1500 feet of another retail store. State law.
		May deny a license for "undue concentration." (LLA denied a license once for this reason and was overruled by the State.)
	Municipality may ban this use in certain areas, i.e. downtown.	Statute doesn't allow municipality to ban liquor as a use in an area.
	Municipality may set hours of operation.	Hours of operation set by state law.
	Municipality may do a complete ban	Municipality may do a complete ban
	Landlord may choose to not rent to a marijuana use.	
	Collect local sales tax.	Collect local sales tax.
	May impose additional excise tax. Requires TABOR election.	
	An owner's association is allowed to bar marijuana businesses in its district.	
Licensing	All license types set by state law.	All license types set by state law.
	Must have a signed lease to apply for a license.	Must have a signed lease to apply for a license.
	Apply first to the state. State then sends license application to the municipality.	Apply first to the municipality. Municipality then sends license application to the state.
	State fees and local fees. Local fees set at the discretion of the municipality.	State fees and local fees. Local fees are limited by the state. (Louisville fees are much lower than the established limit.)
	All employees required to have state issued "red card." Includes state mandated training for support personnel.	Local training sessions encouraged for all employees, not required.
	Background checks required of all employees (part of "red card" application).	Background checks required of all owners of more than 10% and managers.
	Requires LLA Public Hearing	Requires LLA Public Hearing
LLA = Local Licensing Authority	Many of the marijuana regulations are based on the language from Amendment 64 and were designed to give municipalities more control over how they handle marijuana. While both are considered matters of state-wide concern, municipalities have much greater control over local marijuana regulations.	

or have individuals pay for the service. Councilmember Keany stated it has value in the program and may help address illegal dumping. Councilmember Maloney agreed.

Public Comments

Ken Gambon, 607 Augusta Drive and board president of the master association of Coal Creek Ranch HOA, stated they represent 486 homes surrounding the golf course. He stated the HOA covenants and bylaws control the area and are strictly enforced. Neighbors are allowed to compost on their property but no they do not have curb side pickup. Going forward he suggested working with the City to find a better solution for everyone but the City shouldn't arbitrarily be able to change the rates of the HOAs service. The HOA doesn't want an edict. He would like to know the costs of adding composting. He asked for better information for residents on what and how to compost. He stated everyone wants to do the right thing.

Sandy Stewart, 649 Augusta Drive, stated everyone supports composting but what is offered is not easy and not effective. We need to know costs and benefits of a composting program. It needs to be thoughtful, not a knee-jerk program. The homeowners are in favor of keeping the program they have.

Gene Kutscher, 637 Augusta Drive, also in the Coal Creek Ranch HOA; stated the composting numbers are misleading and the costs do make a difference to those on a fixed income. He stated adding a compost care may cause him to violate the HOA covenants if he can't fit another waste cart in his garage. He stated most people in the HOA do not want to be in the City contract.

John Leary, 1116 LaFarge Avenue, stated composting was strongly supported by residents when the program began and when we renewed the contract with Western, there was overwhelming support for the program. He stated composting was included in the program because that is what the people asked for.

DISCUSSION/DIRECTION – MARIJUANA REGULATIONS

Council members reviewed the current marijuana regulations and options for possible changes. Director Zuccaro noted staff supports increasing the allowable size for retail stores but does not recommend allowing cultivation in the light industrial areas.

Public comments

Shaun Gindi, 1100 West Dillon Road, owner of Ajoya stated he would like to expand his store size as he has space he rents that is not available for him to use. He could use the additional space for a variety of uses.

Jim McTurner, general counsel of Starbuds, stated they do not have any requests at this time, but are interested in participating in this discussion.

Councilmember Maloney asked why staff doesn't recommend allowing cultivation in the light industrial areas. Director Zuccaro stated some the concerns staff has heard for such a use are odor, security, and possible conflicts with use. Staff has not discussed this with the owner's association in that area either. Staff can look into what other cities have done to mitigate any of these issues if Council would like to pursue this change.

Councilmember Maloney stated the 2013 rules were conservative for good reason, but perhaps now we should get more information before making this determination.

Councilmember Loo stated some cities that have done this note it requires staff time with expertise in licensing and inspecting cultivation sites.

Mayor Muckle stated he supports increasing the store size. He does not support allowing grow operations mostly because we don't have a problem filling our industrial park and businesses there are a focused cluster of certain kinds of businesses such as aerospace and food production. This use may not mix well with those businesses.

Councilmember Maloney stated he would like to see the City regulate marijuana and liquor as similarly as possible.

Councilmember Keany stated he would support allowing everything except cultivation including production, testing, research and development, and retail. He supports not allowing it in the downtown area and leaving the hours as they are currently set. He is also supportive of increasing the square footage of a store up to 5000 sf.

Mayor Muckle agreed with Councilmember Keany. He added it seems we may be looking to solve a problem that doesn't exist. He stated we many not necessarily want to change the rules now when the Federal Government may be getting stricter on this.

Mayor Muckle asked if everyone supported the increase to 5000 sf; everyone in support.

Mayor Muckle asked if everyone supported adding the all of the additional license types except cultivation. Members were in support of all the license types except cultivation. On cultivation, Council would like more information.

Mayor Pro Tem Lipton suggested reevaluating the distance requirements and the limit on the number of retail stores. He supported continuing the ban in downtown as it is surrounded by residential. He would like to continue the discussion on changing the hours.

Councilmember Leh stated he thinks the existing ¼ mile distance regulations have worked well and don't need to be changed. He supports the downtown ban. He would like information on the other options.

Councilmember Loo supported adjusting the hours to midnight.

Mayor Pro Tem Lipton stated he too would like to see marijuana regulated more like alcohol. He suggested the distances should be more like alcohol which is 500 feet.

Members directed staff to get more on allowing cultivation.

Members would like to see maps showing how many more locations would be available for marijuana uses if the distance requirements were reduced to 500 or 1000 feet.

Staff will bring back more information for Council to review before bringing new regulations for consideration.

DISCUSSION/DIRECTION – CITY COUNCIL USE OF STUDY SESSIONS VERSUS REGULAR OR SPECIAL MEETINGS

Members discussed the changing of study sessions to special meetings or regular meetings as study sessions don't allow Council the chance to give staff direction.

Mayor Muckle stated he does not support making everything a regular meeting as that would affect how members' absences are calculated. He stated the current system works and we can put more effort into reviewing what topics are put on study sessions.

City Manager Balser stated staff will look closely at the advanced agenda to make sure items are scheduled appropriately and give enough time for a special meeting to be scheduled if needed.

Mayor Pro Tem Lipton stated he has felt study sessions to be inefficient as Council cannot give direction and then items are scheduled again for an additional meeting to give direction. He prefers more special meetings to have good discussion and fewer study session. Councilmember Maloney agreed.

Councilmember Leh stated residents may miss something important to them if the Council schedules more special meetings outside of the regular schedule.

John Leary, 1116 LaFarge Avenue, stated it is important to understand decisions cannot be made in study sessions. He stated a meeting is a meeting and all should be televised.

Members decided to continue to schedule special meetings as needed, but not change all study sessions to special meetings.

ADJOURN

SUBJECT: **DISCUSSION/DIRECTION – POSSIBLE UPDATES TO MARIJUANA REGULATIONS**

DATE: **APRIL 17, 2018**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**
ROB ZUCCARO, DIRECTOR OF PLANNING & BUILDING SAFETY

SUMMARY:
As a part of the 2017 Work Plan City Council asked staff to evaluate if there was a need for changes or updates to the City's current marijuana regulations.

Current Regulations:

The City currently allows for four types of marijuana licenses, each of these licenses requires City and State approval. All local licenses must be approved by the Local Licensing Authority.

- Retail Marijuana Store License
- Retail Marijuana Testing Facility License
- Medical Marijuana Center License
- Medical Marijuana-Infused Products Manufacturing License

Other regulations include:

- A marijuana business may not be locate within 1,320 feet of: 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 child care facility;
- May not be in residential, agriculture, office, mixed use, or commercial-neighborhood zoned districts
- May not be in downtown
- A medical center limited to 1800 square feet
- A retail store limited to 2000 square feet
- A shared retail/medical store limited to 3800 square feet
- Hours of operation limited to 8 am – 10 pm
- Limitations on the language and design of signage
- No on-site consumption
- Limit of four retail stores allowed in the City

The City currently has two stores. One is a retail only store and one store is a combined retail and medical facility. From a City regulatory perspective, both have complied with all of the regulations; they follow the licensing rules, pay their sales

tax, and the Police Department has not had problems with the stores or their clientele.

Due to privacy rules, the City is not allowed to report the amount of sales tax the stores bring in.

Council discussed possible changes at the February 27 City Council meeting and directed staff on the following items:

Things not to change in the regulations:

- Keep the ban on marijuana sales downtown.

Things to change in the regulations:

- Allow stores to be up to 5000 sq ft
- Allow production and testing for both retail and medical
- Remove the limit of four retail stores in town

Items about which Council would like further discussion:

- Cultivation – what have other Cities experienced with cultivation?
- Distance Options for Retail Sales – look at revising the distance requirements to either 500 feet or 1000 feet or possibly aligning this with liquor regulations.
- Retail Hours

Cultivation

Attachment number three gives some information on the experiences of some surrounding municipalities with cultivation. Between Boulder, Boulder County and Lafayette there are currently 89 grow operations in Boulder County. In general, security and odor have not been major problems, but each jurisdiction has had some minor issues.

If Council would like to allow cultivation it will need to determine in what zone districts it would be allowed. Most cities that allow cultivation allow it only in industrial zoned areas. If Louisville followed that model it that would limit cultivation to the Colorado Tech Center and a few other areas in town zoned industrial. (Link to City zoning map.) In addition to zoning, the Council would need to determine if it would also like to have a buffer from any other uses (schools, daycares, etc.) similar to what is done with retail marijuana; which would reduce the areas available for this use depending on how the buffer areas are defined.

Staff reached out to the Fire District to see if they have any concerns about grow operations. Chief Willson and Fire Marshal Mestas 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, but that can be done by current staff. Chief Willson 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 ok with this use.

Chief Hayes suggested grow operations be required to have either on-site security, an alarm system, or both and also be required to have secure/locking trash cans.

Distances

On February 27 the Council discussed possibly changing the buffer required between retail marijuana stores and certain other uses. Currently a retail or medical marijuana business may not be located within 1,320 feet (1/4 mile) of: 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 child care facility. Council discussed possibly changing the buffer to 1000 feet or 500 feet.

If the Council would like to regulate marijuana the same as alcohol, the buffer would be set at 500 feet from any school of 1st grade or higher, rather than the more extensive list of uses currently in the Code. In addition, there would be a requirement that stores be at least 1500 feet from one another.

Staff has provided six maps that show the following buffer options:

- 500-foot Buffer from Restricted Properties in Current Code
- 500-foot Buffer from First Grade and Older
- 1000-foot Buffer from Restricted Properties in Current Code
- 1000-foot Buffer from First Grade and Older
- ¼ mile Buffer from Restricted Properties in Current Code
- ¼ mile Buffer from First Grade and Older

Hours

The City currently allows retail marijuana stores to be open for business only between the hours of 8:00 a.m. and 10:00 p.m. Boulder, Lafayette, and Boulder County have the same regulations. Those times could be extended if Council is interested in doing so.

Other questions that may want to be discussed:

One item that was not discussed in February was if Council would like to amend the code to align zoning requirements for retail and medical sales. You can see from the maps that the areas eligible for medical sales (CB Zone District only) do not align with those available for retail sales (CB, CC, CC-Mu, and P-C Zone Districts).

FISCAL IMPACT:
Dependent on direction.

RECOMMENDATION:
Discussion/direction. Once Council determines what changes it would like to see in the regulations, staff will bring back an ordinance for consideration.

ATTACHMENT(S):

1. Current Medical Regulations
2. Current Retail Regulations
3. Cultivation Comparison Chart
4. Maps for Retail/Medical Sales
    a. 500-foot Buffer from Restricted Properties in Current Code
    b. 500-foot Buffer from First Grade and Older
    c. 1000-foot Buffer from Restricted Properties in Current Code
    d. 1000-foot Buffer from First Grade and Older
    e. ¼ mile Buffer from Restricted Properties in Current Code
    f. ¼ mile Buffer from First Grade and Older
5. Regulation Comparison Chart with Other Jurisdictions
6. Regulation Comparison Chart with Liquor Regulations

Chapter 5.10 - MEDICAL MARIJUANA[1]

Sec. 5.10.010. - Purpose.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 14 of the Colorado Constitution and protect the rights of patients and their primary caregivers while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana business might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using medical marijuana businesses in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of medical marijuana businesses.

B. By adoption of this chapter, the city council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 20 means that certain voter initiated amendment to the Colorado Constitution adopted November 7, 2000, which added Section 14 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Cultivation means the process by which a person grows a marijuana plant.

Dwelling unit shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, a creditor interest, or a directorship or officership.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or
3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located.

Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center or medical marijuana-infused products manufacturer, or an ongoing nuisance condition emanating from or caused by the medical marijuana center or medical marijuana-infused products manufacturer.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a medical marijuana business pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means that portion of a property, building, or other structure which is owned or in possession of the licensee and which is used for the purpose of storing, processing, displaying for sale, selling or otherwise distributing medical marijuana or other products by a licensee.

Local licensing authority means the City of Louisville local licensing authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Medical marijuana means marijuana that is grown and sold pursuant to the provisions of this chapter and for a purpose authorized by Section 14 of Article XVIII of the Colorado State Constitution.

Medical marijuana business shall mean any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.

Medical marijuana center means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-402 and this chapter that sells medical marijuana to registered patients or primary caregivers, but is not a primary caregiver.

Medical marijuana delivery business means a medical marijuana business that delivers medical marijuana to a patient or primary caregiver at a location other than a licensed premises.

Medical marijuana-infused products manufacturer means a person licensed pursuant to this chapter to operate a business as described in C.R.S. § 12-43.3-404 and this chapter.

Medical marijuana paraphernalia or *paraphernalia* means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

Minor patient means a patient less than 18 years of age.

Patient means a person who has a debilitating medical condition as defined in Amendment 20.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises means the legal parcel of property upon which a medical marijuana center or medical marijuana-infused product manufacturer is located.

Primary caregiver means a natural person, other than the patient and the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Registry identification card means that document, issued by the state, which identifies a patient authorized to engage in the medical use of marijuana and such patient's primary caregiver, if any has been designated.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana in this state, pursuant to C.R.S. § 12-43.3-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 20, C.R.S. § 12-43.3-101 et seq., C.R.S. § 25-1.5-106, and the rules and regulations promulgated by the state licensing authority, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.030. - Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:
   1. *A medical marijuana center license.* A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-402 to registered patients or primary caregivers, but is not a primary caregiver.
   2. *A medical marijuana-infused products manufacturing license.* A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter and C.R.S. § 12-43.3-404.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.040. - Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to Chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of medical marijuana businesses in the City of Louisville, including without limitation all such powers set forth in this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.
B. The local licensing authority may, consistent with the Code and applicable provisions of state law, grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administrat licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section this Code and C.R.S. § 12-43.3-101 et seq. as from time to time amended.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.050. - License requirements; exemptions.

A. Except as provided in subsection B. of this section, it shall be unlawful for any person to establish or operate a medical marijuana business in the city without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.

B. Primary caregivers who cultivate, possess or dispense medical marijuana to no more than five patients, and patients who cultivate or possess medical marijuana for their own medical use, are not considered medical marijuana businesses and are exempt from the licensing requirements of this chapter, but shall be subject to the following limitations:

1. All such cultivation shall be conducted entirely within a building or other fully enclosed structure.
2. Not more than 12 marijuana plants may be cultivated or kept at the same parcel of property, of which no more than six plants may be mature.
3. In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution and other applicable state laws and regulations.

Notwithstanding the above, the five patient limit shall not apply to primary caregivers who have been authorized by the state health agency to serve additional patients in exceptional circumstances in accordance with C.R.S. § 25-1.5-106(8).

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.060. - Application and fee.

A. A person seeking a license or renewal of a license issued pursuant to this chapter shall submit an application to the local licensing authority on forms provided by the city. At the time of application for a new license, the applicant shall pay a nonrefundable application fee in the amount as established by resolution of the city council to defray the costs incurred by the city for processing the application. A fee in the amount established by resolution of the city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, employees, and other persons required to be qualified pursuant to this chapter. In addition, the applicant shall provide one of the following forms of identification:

1. An identification card issued in accordance with C.R.S. § 42-2-302;
2. A valid state driver's license;
3. A valid driver's license containing a picture issued by another state;
4. A military identification card; or
5. A valid passport.

B. The applicant shall also provide the following information on a form approved by, or acceptable to, the

city, which information shall be required for the applicant, the proposed manager and employees of the medical marijuana business, and all persons having any financial interest in the medical marijuana business that is the subject of the application:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. An acknowledgement and consent that the city will conduct a background investigation, including a criminal history check, and that the city will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of or relating to deposits, withdrawals, balances and loans;
4. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;
5. The name and complete address of the proposed medical marijuana business;
6. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or medical marijuana-infused products manufacturer;
7. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
8. Evidence of a valid sales tax license for the business;
9. If the medical marijuana center will be providing medical marijuana in edible form, evidence of any food establishment license or permit that may be required by the state;
10. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the medical marijuana business, loading zones and all areas in which medical marijuana will be stored, processed or dispensed;
11. A comprehensive business plan for the medical marijuana business which shall contain, without limitation, the following:
    a. A security plan meeting the requirements of section 5.10.160 of this chapter;
    b. A description of all products to be sold;
    c. A signage plan that is in compliance with all applicable requirements of section 5.10.150 of this chapter, this Code and the commercial development design standards and guidelines; and
    d. A plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations; and
12. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center or medical marijuana-infused products manufacturer operation, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority shall circulate the app all affected service areas and departments of the city to determine whether the application is in full compliа applicable laws, rules and regulations.

E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of C.R.S. §§ 12-43.3-302 and 12-43.3-303. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by C.R.S. § 12-43.3-303(4).

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 6, 6-7-2011)

Sec. 5.10.070. - Location criteria.

A. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located within 1,320 feet of another medical marijuana center or medical marijuana infused product manufacturer.

B. No medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located:

1. Within 1,320 feet of: 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 child care facility;
2. Upon any city property;
3. In a dwelling unit or any residentially zoned districts; or
4. Within the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts.

C. No licensed premises for a medical marijuana center or medical marijuana-infused product manufacturer shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 1,800 square feet of leasable floor space, nor shall such licensed premises ever exceed 1,800 square feet of leasable floor space.

D. No medical marijuana center or medical marijuana-infused product manufacturer shall operate as an

outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A, B and C of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A, B and C of this section to the nearest portion of the building or unit in which the medical marijuana center or medical marijuana-infused product manufacturer is located.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.080. - Persons prohibited as licensees.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.3-307 and the rules and regulations promulgated by the State of Colorado.

B. No license provided by this chapter shall be issued to, held by, or renewed by any of the following:

1. A person until the annual fee therefor has been paid;
2. A person whose criminal history indicates that he or she is not of good moral character;
3. A corporation, if the criminal history of any of its officers, directors, or stockholders indicates that the officer, director, or stockholder is not of good moral character;
4. A partnership, association, limited liability company, or other entity, if the criminal history of any of its managers or officers or person having any financial interest in such entity indicates he or she is not of good moral character;
5. A licensed physician making patient recommendations;
6. A person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good moral character and reputation satisfactory to the respective licensing authority;
7. A person under 21 years of age;
8. A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to:
   a. Provide a surety bond or file any tax return with a taxing agency;
   b. Pay any taxes, interest, or penalties due;
   c. Pay any judgments due to a government agency;
   d. Stay out of default on a government-issued student loan;
   e. Pay child support; or
   f. Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency, or an outstanding delinquency for child support.
9. A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, or use of a controlled substance;
10. A person who employs another person at a medical marijuana business who has not passed a criminal history record check;
11. A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

12. A person whose authority to be a primary caregiver has been revoked by the state health agency;
13. A person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or
14. A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that, for a person who submits an application for licensure pursuant to this chapter by May 1, 2011, this requirement shall not apply to that person if the person was a resident of the State of Colorado on December 15, 2009.

C. In investigating the qualifications of an applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license.

D. As used in subsection C of this section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana center license or medical marijuana-infused product manufacturer license, the applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a license on forms prepared by the local licensing authority. The local licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The local licensing authority may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for local licensing purposes may request that the fingerprints on file be used. The local licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a local license pursuant to this chapter. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.090. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana center or medical marijuana-infused product manufacturer to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and

may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. An application for the renewal of an existing license shall be made to the local licensing authority not more than 60 days and not less than 45 days prior to the date of expiration of the license. No application for renewal shall be accepted by the local licensing authority prior to or after such date except as provided is subsection C of this section. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than 90 days may file a late renewal application upon the payment of a nonrefundable late application fee at the time the renewal application is submitted in the amount as established by resolution of the city council. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 7, 6-7-2011)

Sec. 5.10.100. - Annual license fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual license fee in an amount as established by resolution of the city council. The annual license fee may be refunded if the application is denied.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 8, 6-7-2011)

Sec. 5.10.110. - Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.10.130.C.

B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this Chapter 5.10 (including, but not limited to, the location criteria set forth in section 5.10.070), C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana center or medical marijuana-infused product manufacturer.

D. Any person delivering medical marijuana in the city on behalf of a medical marijuana business shall have in his or her possession a true and accurate copy of the license held by said business and shall, upon request by any police officer of the city or by any other duly authorized law enforcement officer, produce the same for inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1642-2013, § 1, 9-3-2013)

Sec. 5.10.120. - Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing

authority. All managers must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements described in section 5.10.080 of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.130. - Change in manager, employee; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers or employees to the local licensing authority within 30 days after the change. Such report shall include all information required for managers and employees under section 5.10.060 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken to qualify new managers and employees may be charged.

B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana business that is the subject of the license. Except as set forth in subsection C. of this section, such report must be filed with the local licensing authority within 30 days after any such transfer or change. A report shall be required for any transfer of the capital stock of any corporation regardless of size. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history contrary to the requirements described in section 5.10.080 of this chapter. A fee for the costs of each fingerprint analysis and background investigation undertaken pursuant to this chapter may be charged.

C. For a transfer of ownership, the license holder shall apply to the local licensing authority. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this Chapter 5.10, C.R.S. § 12-43.4-101, et seq., and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.3-309.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local licensing authority. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the rules and regulations promulgated by the state licensing authority. Each application for modification of premises shall be accompanied by an application fee in the amount as established by resolution of the city council.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1594-2011, § 9, 6-7-2011; Ord. No. 1642-2013, § 2, 9-3-2013)

Sec. 5.10.140. - Hours of operation.

Medical marijuana centers may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1590-2011, § 1, 3-15-2011; Ord. No. 1718-2016, § 1, 5-3-2016)

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana center or medical marijuana-infused products manufacturer shall comply with all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.160. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all medical marijuana centers and medical marijuana-infused product manufacturers shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by C.R.S. § 12-43.3-101 et seq. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.170. - Required notices.

A. There shall be posted in a conspicuous location in each medical marijuana center and medical marijuana-infused product manufacturer a legible sign containing warnings that:
    1. The possession, use or distribution of marijuana is a violation of federal law;
    2. The possession, use or distribution of marijuana for nonmedical purposes is a violation of state law;
    3. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
    4. No one under the age of 18 years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state registry card for such minor patient.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.180. - Cultivation and growing by licensees.

The cultivation and growing of marijuana plants is prohibited within the City of Louisville, except as permitted under subsection 5.10.050.B of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.190. - Sale of edible products.

A. Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes.

B. Any food products sold by a medical marijuana center shall either be inspected by an agency of the Colorado Department of Public Health and Environment or, if no such inspection has occurred, shall contain a label indicating the lack of any such inspection.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.200. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that the marijuana is intended for use solely by the patient to whom it is sold and that any resale or redistribution of the marijuana to any person other than a patient or primary caregiver is a criminal violation.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana center or medical marijuana-infused product manufacturer is prohibited.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.220. - Prohibited acts.

A. It shall be unlawful for any licensee to:

1. Employ any person to manage a medical marijuana center or medical marijuana infused-product manufacturer facility or to dispense medical marijuana who is not at least 21 years of age or who has a criminal history contrary to the requirements described in section 5.10.080 of this chapter;
2. Sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient or primary caregiver;
3. Sell, give, dispense or otherwise distribute to any patient or primary caregiver more than two ounces of any usable form of medical marijuana within any seven-day period of time or in such other quantities allowed pursuant to Amendment 20;
4. To maintain, sell, dispense or otherwise distribute mature medical marijuana plants at any medical marijuana center;
5. Purchase or otherwise obtain from another licensed medical marijuana center in Colorado more medical marijuana than permitted by state law or regulation;
6. Permit on the licensed premises any person other than:
   a. The licensee, the licensee's manager, employees and financial interest holders;
   b. A patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20;
   c. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card;

d. A primary caregiver in possession of his or her patient's registry identification card or its function Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the pat caregiver, as submitted to the Colorado Department of Public Health and Environment;

e. A person whose physical presence and assistance are necessary to assist a patient;

f. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business;

g. Law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;

7. Permit the sale or consumption of alcohol beverages on the licensed premises; or

8. Cultivate or permit the cultivation of medical marijuana on the licensed premises.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.230. - Visibility of activities; control of emissions.

A. All activities of medical marijuana centers and medical marijuana infused product manufacturers, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a center or infused product manufacturer so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana center or infused product manufacturer, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.240. - Disposal of marijuana byproducts.

The disposal of medical marijuana, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.250. - Deliveries of medical marijuana.

Deliveries of medical marijuana and paraphernalia by licensees operating a medical marijuana delivery business, whether or not such business is conducted in conjunction with a city-licensed medical marijuana center or medical marijuana-infused product manufacturer, shall be made only to patients and primary caregivers and only in the amounts specified in subsection 5.10.220.A.3 of this chapter. All such deliveries shall be subject to the record keeping requirements contained in section 5.10.270 of this chapter.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.260. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all medical marijuana, paraphernalia and other tangible personal property sold, dispensed, or purchased at the medical marijuana center, in accordance with the requirements of Chapter 3.20 of this Code.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.270. - Required books and records.

A. Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana business in any usable form. Such record shall include the following:
   1. The identity of the seller and purchaser involved in each transaction;
   2. The total quantity of, and amount paid for, the medical marijuana; and
   3. The date, time and location of each transaction.
B. Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:
   1. The patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;
   2. The form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:
      a. An identification card issued in accordance with C.R.S. § 42-2-302,
      b. A valid state driver's license;
      c. A valid driver's license containing a picture issued by another state;
      d. A military identification card;
      e. A valid passport; or
      f. An alien registration card.
   3. A registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.
C. Information provided to the licensee by a patient or primary caregiver under the provisions of this section need not include any information regarding the patient's physician or medical condition.
D. All transactions shall be kept in a numerical register in the order in which they occur.
E. All records required to be kept under this chapter must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three years after the date of the transaction. Information inspected by the city police department or other city departments pursuant to this chapter shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.280. - Inspection of licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where medical marijuana is stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

D. Nothing in this section or section 5.10.070 of this chapter shall require the disclosure of information contrary to the provisions of federal or state law or Amendment 20 which are intended to protect the privacy of patients.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.290. - Non-renewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.300. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.310. - No city liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the medical marijuana business for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana business that is the subject of the license.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.320. - Other laws remain applicable.

A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional or stricter regulation shall control the establishment or operation of any medical marijuana business in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the state or federal government prohibits the sale or other distribution of marijuana through medical marijuana centers or medical marijuana-infused products manufacturers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Sec. 5.10.330. - Severability.

If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

(Ord. No. 1590-2011, § 1, 3-15-2011)

Chapter 5.11 - RETAIL MARIJUANA

Sec. 5.11.010. - Purpose; relationship with the Colorado retail marijuana code.

A. The provisions of this chapter are intended to implement the provisions of Article XVIII, Section 16 of the Colorado Constitution while also protecting the health, safety, and welfare of the public and curtailing the unlawful possession, use, distribution, or transportation of marijuana for unlawful purposes by:

1. Requiring that retail marijuana establishments be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a retail marijuana establishment might have on surrounding properties and persons;
2. Regulating the conduct of persons owning, operating and using retail marijuana establishments in order to protect the public health, safety and welfare; and
3. Regulating the location and operation of retail marijuana establishments.

B. By adoption of this chapter, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

C. Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this chapter and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, ordinance, rule or regulation, the more restrictive provision shall control.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.020. - Definitions.

A. As used in this chapter, the following words or phrases shall have the following meanings:

Amendment 64 means that certain voter initiated amendment to the Colorado Constitution adopted November 6, 2012, which added Section 16 of Article XVIII to the Colorado Constitution.

Applicant means any person or entity who has submitted an application for a license, license renewal, or other licensing action pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Retail Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes, as amended.

Cultivation means the process by which a person grows a marijuana plant.

Division means the Marijuana Enforcement Division.

Dwelling unit shall mean one or more rooms and a single kitchen and at least one bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

Financial interest means an ownership interest, or a directorship or officership.

Good cause , for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any applicable state or local law, rules, or regulations;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment; or
4. The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means.

Leasable square feet means the total floor area of building designed for tenant occupancy and exclusive use, including any basements, mezzanines, upper floors, or storage areas.

License means a document issued by the city officially authorizing an applicant to operate a retail marijuana establishment pursuant to this chapter.

Licensee means the person to whom a license has been issued pursuant to this chapter.

Licensed premises means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to manufacture, distribute, sell, or test retail marijuana and retail marijuana products in accordance with this chapter and all applicable laws, rules and regulations.

Local licensing authority means the City of Louisville Local Licensing Authority.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories mean any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana club shall mean a place not used for residential purposes where individuals gather to consume, grow, distribute or otherwise use marijuana or marijuana products for medical or personal use, regardless of whether such place calls itself private or public or charges an admission, membership or similar fee. A medical marijuana business or retail marijuana establishment with valid state and local licenses shall not constitute a marijuana club.

Person means a natural person, partnership, association, company, corporation, limited liability company, or organization; except that person does not include any governmental organization.

Premises means a distinctly identified, as required by the state licensing authority, and definite location, which may include a building, a part of a building, or any other definite contiguous area.

Public or private elementary, middle, junior high, or high school means existing public or private elementary, middle, junior high, or high schools and public or private elementary, middle, junior high, or high school sites designated as a use permitted by right on a planned community general development plan that has been granted approval by the city council on or before the date an application for a retail marijuana establishment license is received by the city.

Public playground means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.

Retail marijuana means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, and that are produced at a retail marijuana products manufacturing facility.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package retail marijuana products; and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Secretary means the secretary of the local licensing authority or such person's designee.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, testing, and advertising of retail marijuana in this state, pursuant to C.R.S. § 12-43.4-201.

B. In addition to the definitions provided in subsection A. of this section, other terms used in this chapter shall have the meaning ascribed to them in Amendment 64, the Colorado Retail Marijuana Code, and the rules and regulations promulgated thereunder, as in effect from time to time, and such definitions are hereby incorporated into this chapter by this reference.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1677-2014, § 1, 11-18-2014)

Sec. 5.11.030. - Classes and number of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-402 and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana. The facility may develop and test retail marijuana products, pursuant to the terms and conditions of this chapter, C.R.S. § 12-43.4-405 and any related rules and regulations.

B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.040. - Authorization of the local licensing authority.

A. The City of Louisville's existing local licensing authority, previously established pursuant to chapter 5.08 of this Code, shall have and exercise all the powers expressly granted and necessarily implied to regulate the licensing of retail marijuana establishments in the City of Louisville, including without limitation all such powers set forth in this Code, the Colorado Retail Marijuana Code, and all related rules and regulations, as from time to time amended.

B. The local licensing authority may grant, approve, renew, or refuse licenses under this chapter; conduct investigations as are required by law or as are appropriate to the administration of this chapter; suspend or revoke licenses; and levy penalties, sanctions and other conditions against licensees in the manner provided by law.

C. The local licensing authority shall have the authority to promulgate rules and regulations for its administration of the licensing requirements of this chapter, and shall have the power to issue subpoenas as provided in section 5.08.130 of this Code, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.050. - License requirements.

It shall be unlawful for any person to establish or operate a retail marijuana establishment in the city without first having obtained a license for such business from the state and local licensing authorities. Such licenses shall be kept current at all times, and the failure to maintain current licenses shall constitute a violation of this section.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.060. - Screening and response to state license applications.

A. Upon receipt of an application from the state licensing authority for a retail marijuana license, the secretary of the local licensing authority shall:

1. Initially determine, in consultation with the planning and building safety department,

whether or not the proposed location complies with any and all zoning and land use laws of the city and any and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this chapter. If the secretary makes an initial determination that the proposed license would be in violation of any zoning law or other restriction set forth in this Code, the secretary shall notify the state licensing authority in writing that the application is disapproved by the city. The failure of the secretary to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority or the secretary from determining that the proposed license is in violation of any zoning law or other restriction set forth in this Code, and disapprove the issuance of a local license on this basis.

2. For any application that is not disapproved as provided in subsection 1, the secretary shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this chapter, after which the secretary will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.070. - Local license procedure.

A. Applications for local licenses shall be made on forms provided by the division and shall include all materials required by the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder.

B. The applicant shall also provide the following information to the city, which information shall be required for the applicant, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment that is the subject of the application; to the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring resubmittal of the same materials for the local license application:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, a copy of its articles of incorporation or organization or other filing required for organization, copies of any ownership agreements, operating agreement, and bylaws, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State;

4. The name and complete address of the proposed retail marijuana establishment;
5. If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
6. A copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;
7. Evidence of a valid sales tax license for the business;
8. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, leasable floor space, all entryways and exits to the retail marijuana establishment, loading zones and all areas in which retail marijuana or retail marijuana products will be stored, processed or dispensed;
9. A comprehensive business plan for the retail marijuana establishment which shall contain, without limitation, the following:
    a. A security plan meeting the requirements of section 5.11.170;
    b. A description of all products to be sold;
    c. A signage plan that is in compliance with all applicable requirements of section 5.11.160, this Code and the applicable design standards and guidelines; and
10. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

D. Upon receipt of a completed application, the secretary of the local licensing authority or his or her designee shall circulate the application to all affected service areas and departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations.

E. The planning and building safety department shall, prior to issuance of the license, perform an inspection of the proposed premises to determine compliance with any applicable requirements of this chapter or other provisions of this Code.

F. Upon receipt of a complete application, the local licensing authority shall schedule a public hearing upon the application to be held and conducted in accordance with applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations adopted thereunder. The local licensing authority has the authority to deny a license for good cause.

G. The local licensing authority shall have the authority to deny any application that does not meet the requirements of this chapter, the Retail Marijuana Code, and any applicable state or

local rule or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

H. After approval of an application, a local license shall not be issued until a state license has been issued and the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with this chapter and any applicable provisions of this Code or state law or regulation and until the planning and building safety department has performed the inspection required by this chapter.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.080. - Location criteria; co-location.

A. No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 1,320 feet of: a public or private preschool, elementary, middle, junior high, or high school; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. Upon any city property; or
2. In a dwelling unit or any residentially zoned districts; or
3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or
4. Within the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or any other zoned area in which the retail marijuana establishment is not a permitted use.

B. No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 2,000 square feet of leasable floor space, nor shall such licensed premises ever exceed 2,000 square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 3,800 square feet of leasable floor space.

C. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

D. The distances described in subsection A above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in

subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

E. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.
3. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.090. - Persons prohibited as licensees; background checks.

A. A license shall not be issued to or held by any person contrary to C.R.S. § 12-43.4-306 and the rules and regulations promulgated by the State of Colorado.

B. In investigating the qualifications of an applicant, licensee, owner, or manager of a retail marijuana establishment, the local licensing authority shall make a finding and determination as to the good moral character and criminal history of such persons in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. In so doing, the local licensing authority may incorporate any findings as to good character and criminal history previously made by the state licensing authority or may, in its sole discretion, make its own findings.

C. The city shall not be required to perform a criminal background check if the state licensing

authority has already performed a criminal background check or may, in its sole discretion, perform its own background check. In such case, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority considers the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a local license. If the city performs the criminal background check, a fee in the amount established by resolution of city council may be charged for the costs of each fingerprint analysis and background investigation undertaken to qualify new applicants, managers, and any other persons required to be qualified pursuant to the Colorado Retail Marijuana Code, this chapter, and any related rules and regulations. The local licensing authority may verify any of the information an applicant is required to submit.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.100. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each retail marijuana establishment to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this chapter shall be valid for one year from the date of issuance and may be renewed only as provided in this chapter. All renewals of a license shall be for no more than one year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

C. Notwithstanding subsection B, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee in the amount established by city council by resolution to the local licensing authority. A licensee who files a late renewal application and pays the requisite fee may continue to operate until a decision is made on the renewal.

D. The local licensing authority may deny a renewal application for good cause pursuant to section 5.11.260.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.110. - Annual operating fee.

Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of the city council. The annual operating fee may be refunded if the application is denied.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.120. - Use and display of license.

A. A license shall not be transferable to another person except as provided in section 5.11.140.C.
B. Each license shall be limited to use at the premises specified in the application for such license. A licensee may move its permanent location to another place in the city upon application to and approval by the local licensing authority. In determining whether to permit a change in location, the local licensing authority shall consider all reasonable restrictions that are or may be placed upon the new location by the local licensing authority, and any such change in location shall be in accordance with all requirements of this chapter 5.11 (including, but not limited to, the location criteria set forth in section 5.11.080), the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.
C. Each license shall be continuously posted in a conspicuous location at the licensed premises of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.130. - Management of licensed premises; employees.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers and employees must be natural persons who are at least 21 years of age. No manager shall be a person having a criminal history contrary to the requirements of the Colorado Retail Marijuana Code or any rules or regulations promulgated thereunder.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.140. - Change in manager; change in financial interest; modification of premises.

A. Each licensee shall report any change in managers to the local licensing authority within seven days after the change.
B. Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the

subject of the license and receive approval prior to any transfer or change pursuant to subsection C. of this section. A report is required for transfers of capital stock of any corporation regardless of size.

C. For a transfer of ownership, the license holder shall apply to the state and local licensing authorities. In determining whether to permit a transfer of ownership, the local licensing authority shall consider only the suitability of the applicant pursuant to this chapter 5.11, the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended. The local licensing authority may hold a hearing on the transfer application; provided the local licensing authority shall not hold a hearing until notice has been posted and provided to the applicant in accordance with the requirements of C.R.S. § 12-43.4-308.

D. After a license is issued, the licensee shall make no physical change which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the state and local licensing authorities. For purposes of this subsection, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent shall be as specified in the Colorado Retail Marijuana Code and the rules and regulations promulgated thereunder. Each application for modification of premises shall be accompanied by an application fee in amount established by resolution of the city council.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.150. - Hours of operation.

Retail marijuana stores may be open for business only between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 1649-2013, § 1, 12-17-2013; Ord. No. 1718-2016, § 2, 5-3-2016)

Sec. 5.11.160. - Signage and advertising.

All signage and advertising for any retail marijuana establishment shall comply with all applicable provisions of title 17 of this Code, the applicable design standards and guidelines, the Colorado Retail Marijuana Code, and the rules and regulations adopted thereunder. In addition, all signage of the retail marijuana establishment, including but not limited to temporary signage, shall contain only the business name and trademark of the retail marijuana establishment.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.170. - Security requirements.

Security requirements for any premises licensed pursuant to this chapter, shall include, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the local licensing authority to properly administer and enforce the provisions of this chapter.

Security measures at all retail marijuana establishments shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Retail Marijuana Code. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.180. - Cultivation, growing, and manufacturing.

The cultivation and growing of marijuana plants and the manufacturing of retail marijuana products is prohibited within the City of Louisville, except as permitted for nonretail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the city a marijuana cultivation facility or a retail marijuana products manufacturing facility.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.190. - Labeling.

All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner consistent with the Colorado Retail Marijuana Code, and any related rules and regulations, as from time to time amended.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.200. - Onsite consumption of retail marijuana.

The consumption of marijuana or marijuana products on or within the licensed premises of a retail marijuana establishment is prohibited.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.210. - Prohibited acts.

A. It shall be unlawful for any licensee to:

1. Violate or fail to comply with any provision of Amendment 64, the Colorado Retail

Marijuana Code, any rules and regulations adopted thereunder, or any applicable state or local law, ordinance, rule or regulation.

2. To allow marijuana or marijuana products to be consumed upon its licensed premises.
3. To use advertising material that is misleading, deceptive, or false or that is designed to appeal to minors.
4. To sell retail marijuana or retail marijuana products to a person under 21 years of age or to a person who does not present a government issued identification at the time of purchase.
5. To sell more than a quarter of an ounce of retail marijuana or more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of the State of Colorado.
6. To have on the licensed premises any retail marijuana, retail marijuana products, or marijuana paraphernalia that shows evidence of the marijuana or marijuana product having been consumed or partially consumed.
7. Distribute marijuana or marijuana products, with or without remuneration, directly to another person using a mobile distribution center.
8. Distribute or allow the distribution of any marijuana or marijuana product without charge within a retail marijuana establishment or any place open to the public for purpose of promotion or advertising.
9. Distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana or marijuana product either free or at a discount.

B. It shall be unlawful for a retail marijuana store:

1. To sell or give away any consumable product, including but not limited to, cigarettes, alcohol, or edible products that do not contain marijuana (e.g., soda, candy, and baked goods).
2. To sell retail marijuana or retail marijuana products over the internet or to deliver marijuana or marijuana products to a person not physically present in the licensed premises.

C. It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of retail marijuana other than those forms of businesses and commerce that are expressly permitted by Amendment 64, the Colorado Retail Marijuana Code, and this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.220. - Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing,

displaying, selling and storage, shall be conducted indoors.

B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.230. - Disposal of marijuana byproducts.

The disposal of retail marijuana, byproducts and marijuana accessories shall be done in accordance with the Colorado Retail Marijuana Code and any other applicable state and local laws, ordinances and regulations.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.240. - Sales and use tax.

Each licensee shall collect and remit city sales and use taxes on all retail marijuana, retail marijuana products, marijuana accessories and other tangible personal property sold, dispensed, used or purchased at the retail marijuana establishment, in accordance with the requirements of chapter 3.20 of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.250. - Inspection of books and records and licensed premises.

A. Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority or its duly authorized representatives, and by the city police department for the purposes of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter and may require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

B. The licensed premises, including any places of storage where retail marijuana or retail

marijuana products are stored, sold, or dispensed, shall be subject to inspection by the local licensing authority or its duly authorized representatives, and by the city police department, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the local licensing authority or city, the licensee shall open the area for inspection.

C. Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.260. - Nonrenewal, suspension, or revocation of license.

The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or license fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.265. - Marijuana clubs prohibited.

The establishment or operation of a marijuana club is prohibited in all zoning districts in the City.

(Ord. No. 1677-2014, § 2, 11-18-2014)

Sec. 5.11.270. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, owner, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this chapter, shall be guilty of a misdemeanor punishable as provided in section 1.28.010 of this Code.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.280. - No city liability; indemnification.

A. By accepting a license issued pursuant to this chapter, the licensee waives and releases the

city, its officers, elected and appointed officials, employees, attorneys, agents and authorized volunteers from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients or customers of the retail marijuana establishment for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this chapter, all licensees, jointly and severally if more than one, agree to indemnify, defend and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

(Ord. No. 1649-2013, § 1, 12-17-2013)

Sec. 5.11.290. - Other laws remain applicable.

A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for nonrenewal, revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the state or federal government prohibits the sale or other distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 1649-2013, § 1, 12-17-2013)

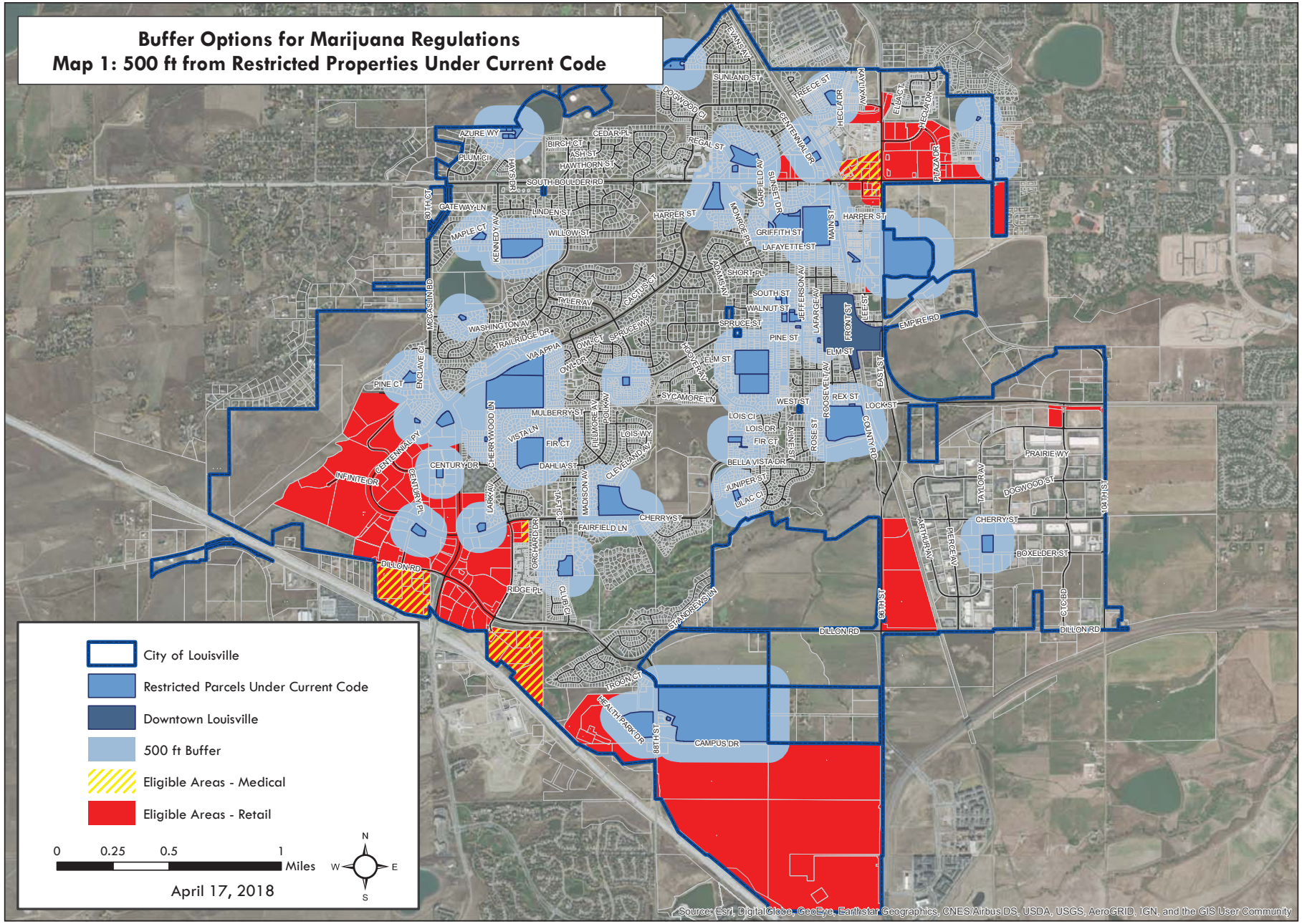
Sec. 5.11.300. - Severability.

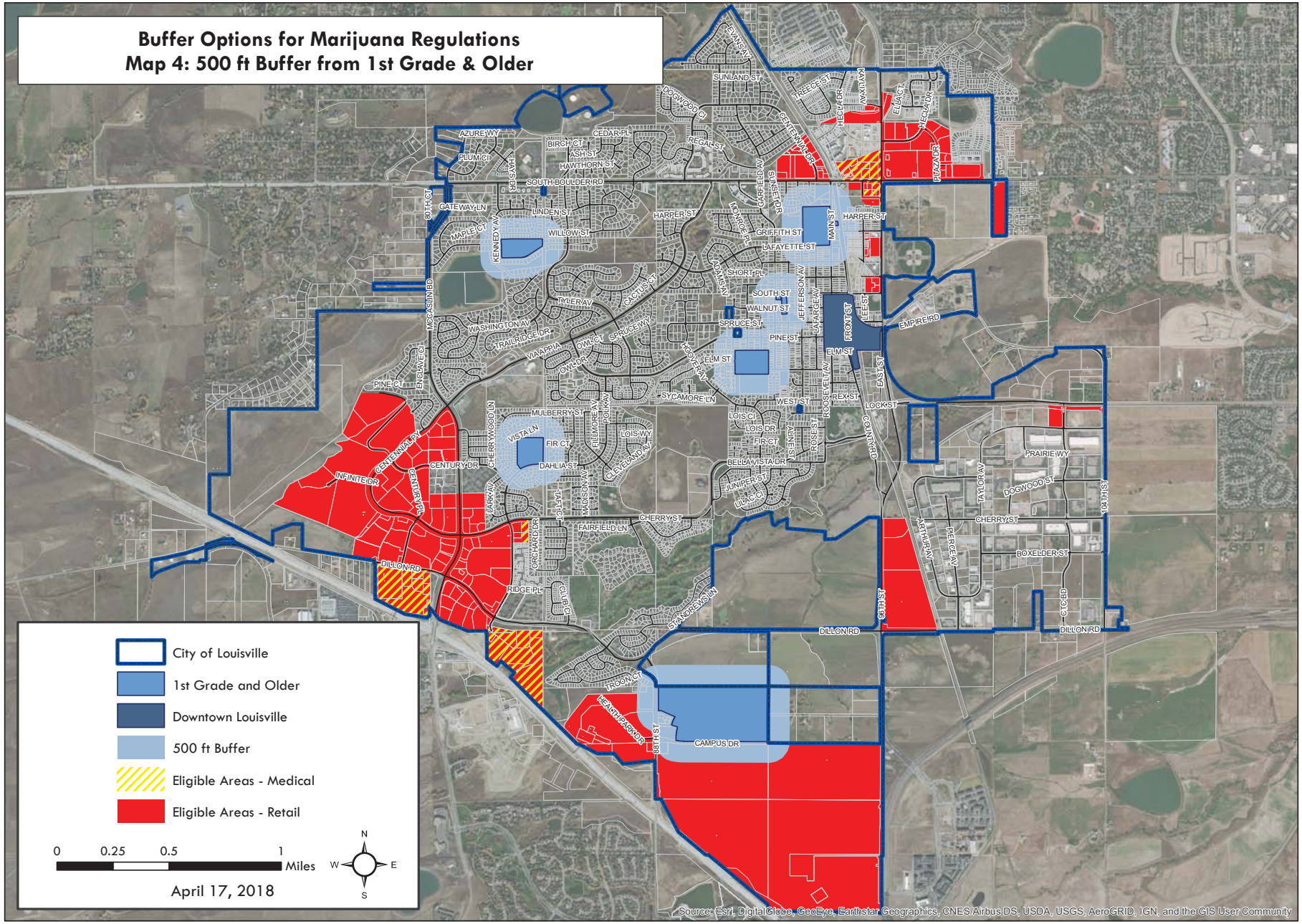
If any section, sentence, clause, phrase, word or other provision of this chapter is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this chapter or the validity of this chapter as an entirety, it being the legislative intent that this chapter shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

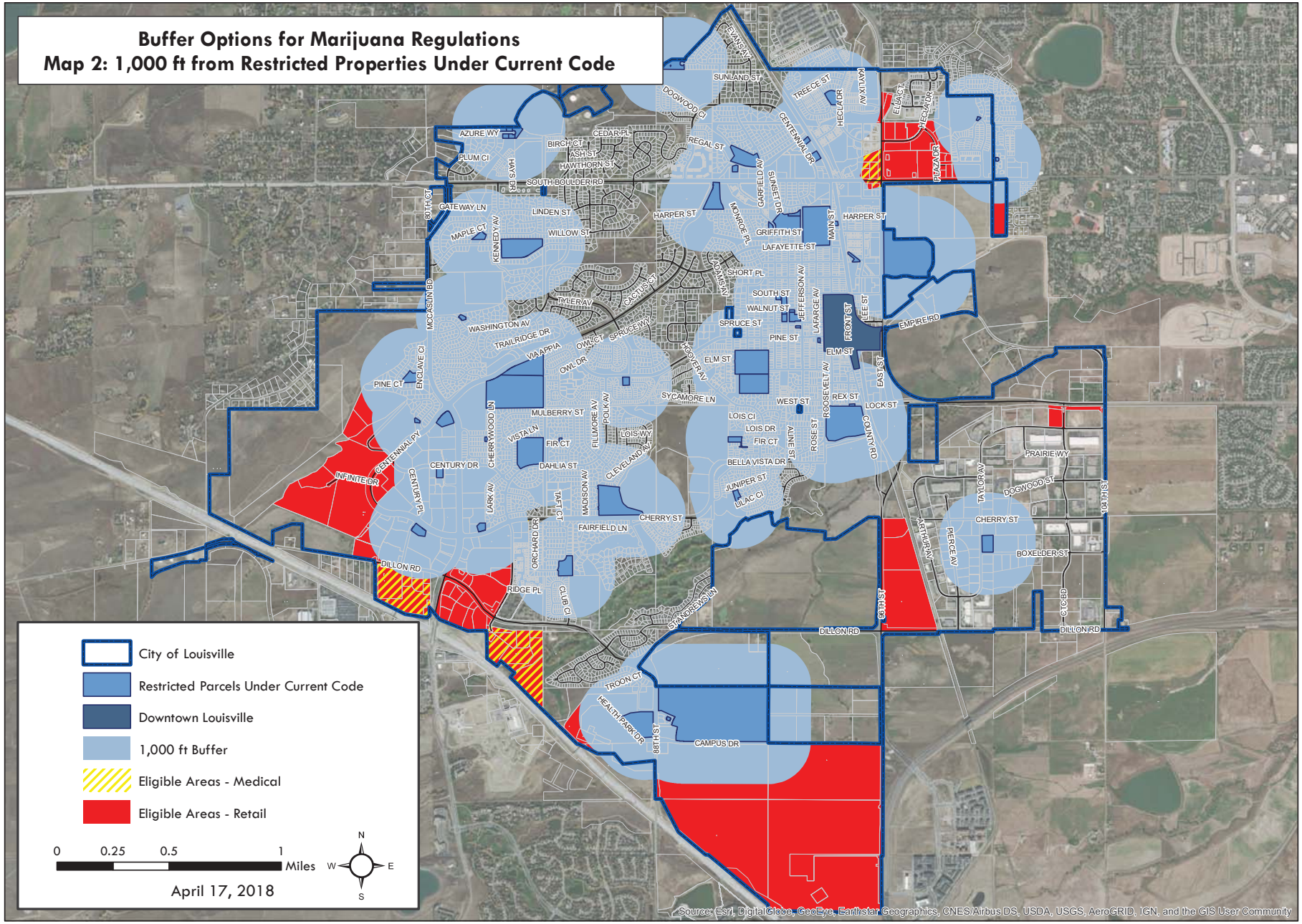
(Ord. No. 1649-2013, § 1, 12-17-2013)

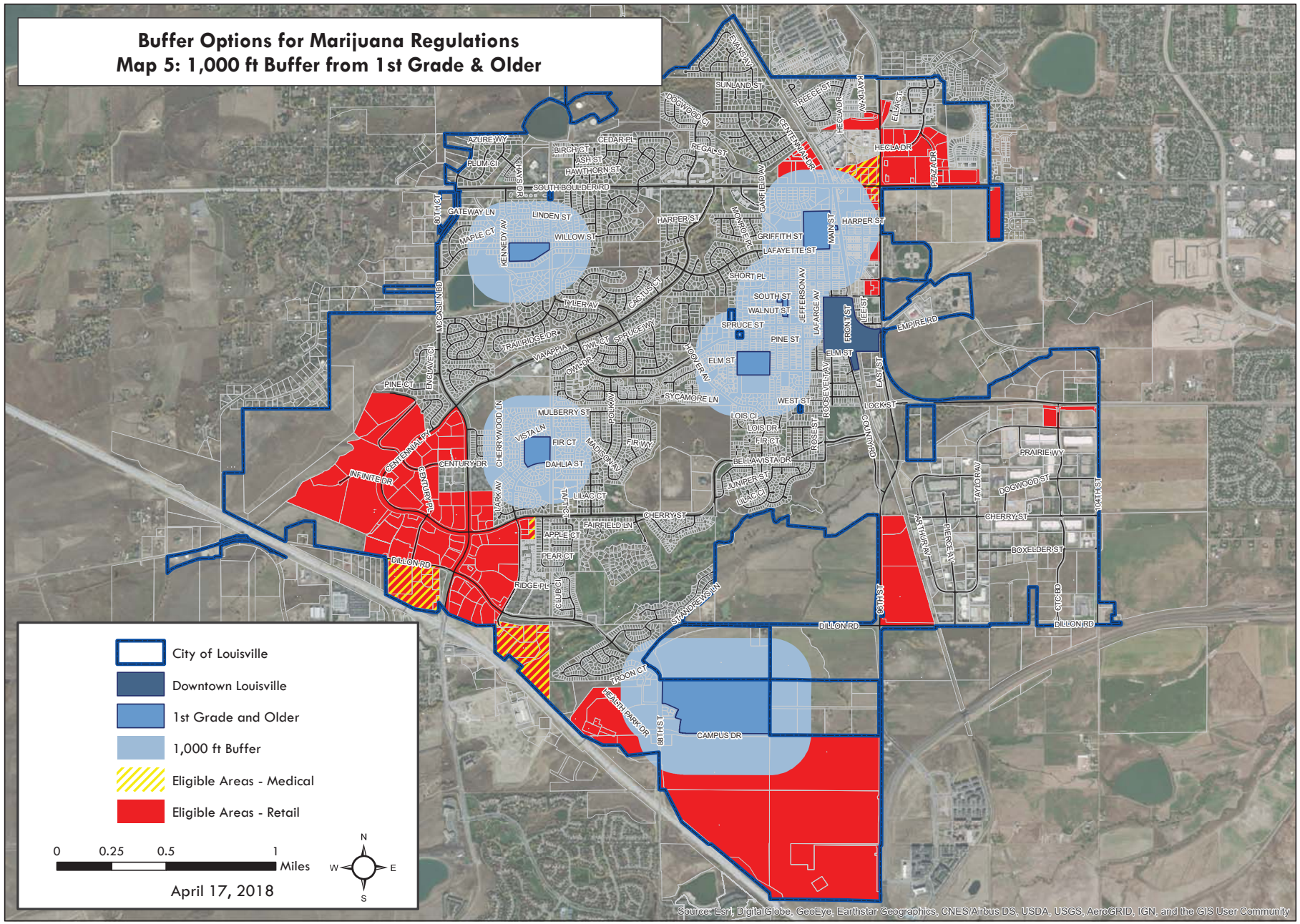
INFORMATION FROM OTHER JURISDICTIONS

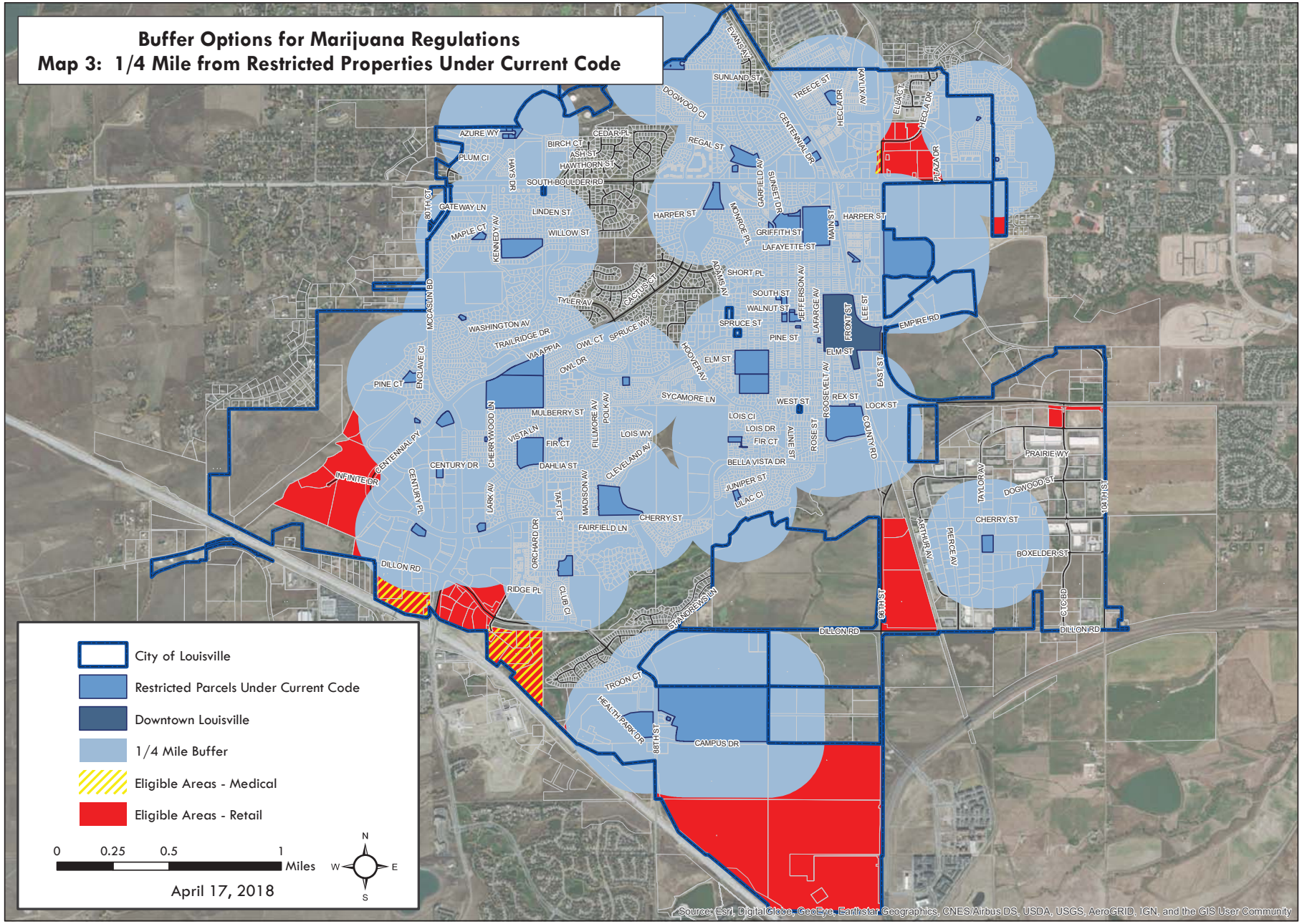
	Boulder	Boulder County	Lafayette	Commerce City	Longmont Superior Broomfield
Staffing	Added additional licensing specialist	No staff added	Licensing, background investigations, inspections, patrolling, etc., have been absorbed by existing staff.	Added part-time police investigator to complete background investigations.	BAN CULTIVATION
Complaints	Odor is most frequent community complaint. Have 7 areas with active odor investigations and required mitigation.	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.	One odor violation. The licensee installed new ventilation equipment to mitigate the problem.	Minor issues with odor at production site, cultivations just coming on line so don't have information on those.	
Security	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.	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.	None.	Minor issues with break ins for production sites	
Number of Cultivation Licenses	53	30	6	6	

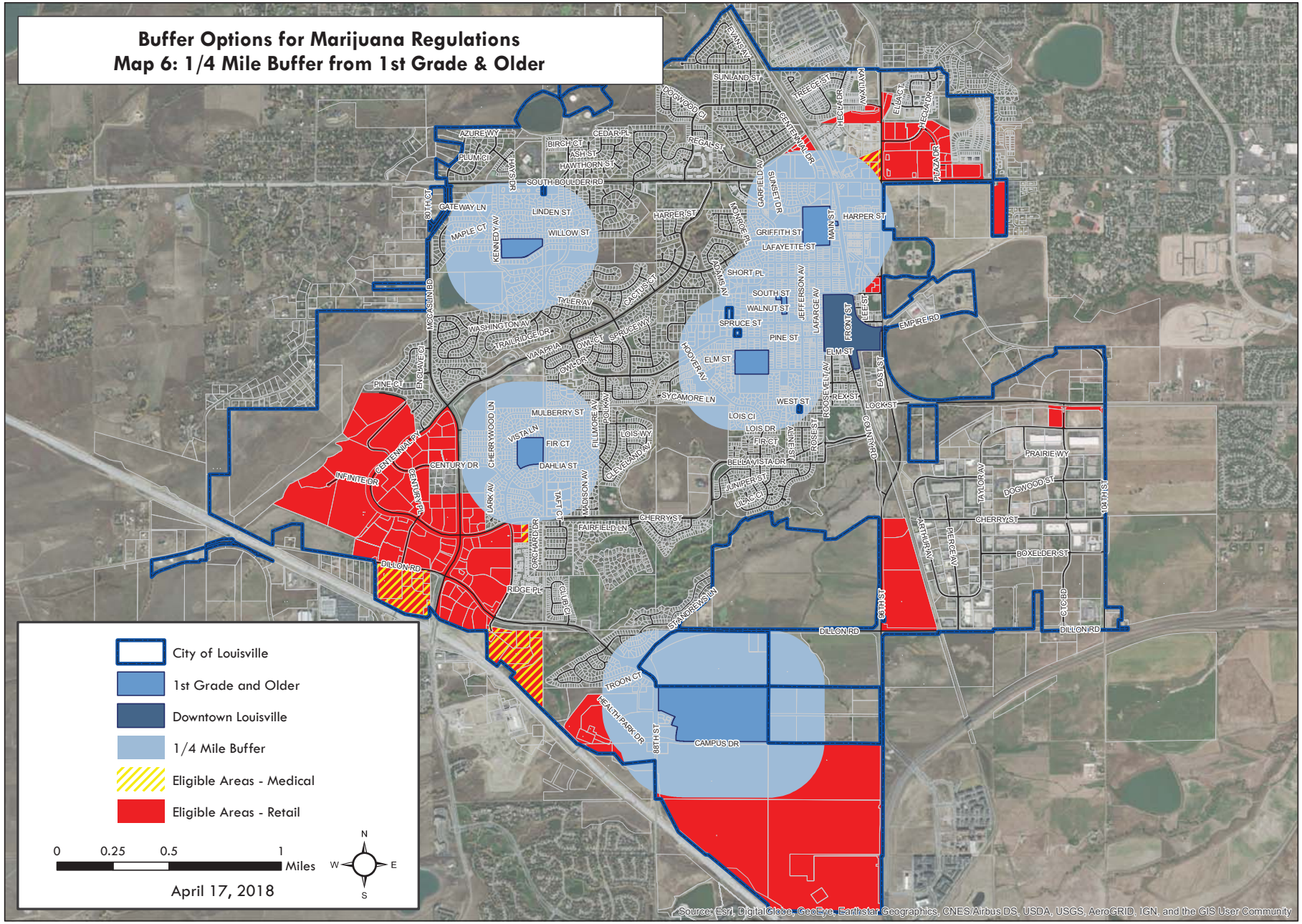

Buffer Options for Marijuana Regulations
Map 1: 500 ft from Restricted Properties Under Current Code
City of Louisville
Restricted Parcels Under Current Code
Downtown Louisville
500 ft Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
April 17, 2018
N
W
E
S
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
Map 4: 500 ft Buffer from 1st Grade & Older
City of Louisville
1st Grade and Older
Downtown Louisville
500 ft Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
N
W
E
S
April 17, 2018
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
Map 2: 1,000 ft from Restricted Properties Under Current Code
City of Louisville
Restricted Parcels Under Current Code
Downtown Louisville
1,000 ft Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
N
W
E
S
April 17, 2018
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
Map 5: 1,000 ft Buffer from 1st Grade & Older
City of Louisville
Downtown Louisville
1st Grade and Older
1,000 ft Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
April 17, 2018
N
W
E
S
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
Map 3: 1/4 Mile from Restricted Properties Under Current Code
City of Louisville
Restricted Parcels Under Current Code
Downtown Louisville
1/4 Mile Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
April 17, 2018
N
S
E
W
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
Map 6: 1/4 Mile Buffer from 1st Grade & Older
City of Louisville
1st Grade and Older
Downtown Louisville
1/4 Mile Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
April 17, 2018
N
W
E
S
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
SOUTH BOULDER RD
DILLON RD
CENTURY DR
CENTENNIAL PK
INFINITE DR
CAMPUS DR
HEALTH PARK DR
TROON CT
STANDREWS LN
RIDGE PL
CHERRY ST
FAIRFIELD LN
MULBERRY ST
SYCAMORE LN
HARPER ST
LAFAYETTE ST
GRIFFITH ST
SUNLAND ST
PRAIRIE WY
DOGWOOD ST
BOXELDER ST
EMPIRE RD
LOCK ST
PINE ST
ELM ST
WEST ST
SOUTH ST
WALNUT ST
SPRUCE ST
LINDEN ST
WILLOW ST
GATEWAY LN
AZURE WY
PLUM CT
BIRCH CT
CEDAR PL
ASH ST
HAWTHORN ST
REGAL ST
DOGWOOD CT
MAPLE CT
PINE CT
ENCLAVE CT
VISTA LN
FIR CT
DAHLIA ST
LOIS CT
LOIS DR
LOIS WY
BELLAVISTA DR
JUNIPER CT
LILAC CT
SHORT PL
TYLER AV
WASHINGTON AV
TRAILRIDGE DR
VIA APPIA
OWL CT
SPRUCE WY
CACTUS CT
ADAMS AV
HOOVER AV
FILLMORE AV
ROOSEVELT AV
REX ST
ROSE ST
ALTON ST
CLEVELAND AV
MADISON AV
TAFT CT
ORCHARD DR
CHERRYWOOD LN
LARK AV
MOCASIN BD
KENNEDY AV
GARFIELD AV
SUNSET DR
MONROE PL
JEFFERSON AV
LAFARGE AV
MAIN ST
FRONT ST
LEE ST
EAST ST
COUNTY RD
TAYLOR AV
ARTHUR AV
PIERCE AV
104TH ST
96TH ST
86TH ST
CTO BD
ELIA CT
REGAL DR
AVALON WY
HEPLER DR
REECE ST
CENTENNIAL DR
EVANS AV

COMPARISON OF MARIJUANA REGULATIONS IN AREA JURISDICTIONS

	Louisville	Boulder	Boulder County	Lafayette	Broomfield	Superior
Retail Sales	Allow	Allow	Allow	Allow	COMPLETE BAN	COMPLETE BAN
Medical Sales	Allow	Allow	Allow	Allow		
Retail Product Manufacturing		Allow	Allow	Allow		
Medical Product Manufacturing	Allow	Allow	Allow	Allow		
Retail Marijuana Testing Facility	Allow	Allow	Allow	Allow		
Medical Marijuana Testing Facility		Allow	Allow	Allow		
Retail Cultivation		Allow	Allow	Allow		
Medical Cultivation		Allow	Allow	Allow		
Marijuana Research & Development		Allow	Allow	Allow		
Distance Requirement	1320 Feet	1000 Feet	1000 feet	500 - 1000 feet		
Limit on # of Retail Stores	4	None	None	3		
Geographic area limitations	Not allowed downtown	Not allowed in mixed use buildings where there is a residence in the building, or on the ground floor of the Downtown BID district. Don't allow more than 3 MJ businesses within 500 feet of each other.	None	500 - 800 ft setbacks from certain streets		
Square Footage Restrictions	Medical center is limited to 1800 sf; retail store is limited to 2000 sf; shared retail/ medical is limited to 3800 sf.	Dispensaries must be in personal services zones and may not be larger than 3,000 square feet. Grows must be in light industrial zones and may not be larger than 15,000 sq feet. MIPs must be in manufacturing or light industrial and may not be larger than 15,000 sq feet.	None	None		

COMPARISON OF MARIJUANA TO LIQUOR REGULATIONS

	Marijuana Regs	Liquor Regs
Land Use and Other Regulations	Must be 1320 feet from any daycare or school. This is set by municipality.	Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.
	New stores may not be within 1320 feet of another store. This is set by municipality.	New retail stores may not be within 1500 feet of another retail store. State law.
		May deny a license for "undue concentration." (LLA denied a license once for this reason and was overruled by the State.)
	Municipality may ban this use in certain areas, i.e. downtown.	Statute doesn't allow municipality to ban liquor as a use in an area.
	Municipality may set hours of operation.	Hours of operation set by state law.
	Municipality may do a complete ban	Municipality may do a complete ban
	Landlord may choose to not rent to a marijuana use.	
	Collect local sales tax.	Collect local sales tax.
	May impose additional excise tax. Requires TABOR election.	
	An owner's association is allowed to bar marijuana businesses in its district.	
Licensing	All license types set by state law.	All license types set by state law.
	Must have a signed lease to apply for a license.	Must have a signed lease to apply for a license.
	Apply first to the state. State then sends license application to the municipality.	Apply first to the municipality. Municipality then sends license application to the state.
	State fees and local fees. Local fees set at the discretion of the municipality.	State fees and local fees. Local fees are limited by the state. (Louisville fees are much lower than the established limit.)
	All employees required to have state issued "red card." Includes state mandated training for support personnel.	Local training sessions encouraged for all employees, not required.
	Background checks required of all employees (part of "red card" application).	Background checks required of all owners of more than 10% and managers.
	Requires LLA Public Hearing	Requires LLA Public Hearing
LLA = Local Licensing Authority	Many of the marijuana regulations are based on the language from Amendment 64 and were designed to give municipalities more control over how they handle marijuana. While both are considered matters of state-wide concern, municipalities have much greater control over local marijuana regulations.	

Councilmember Loo stated there is too much overlap with OSAB and Parks requests and there needs to be better descriptions. She noted all of the requests could be moot depending on what happens in Coyote Run.

Councilmember Loo stated all FTE requests need to show how they benefit maintaining what we have.

Mayor Pro Tem Lipton stated there are three categories from Open Space: acquisition, maintenance, and programming. We need to pivot from acquisition to maintenance.

Parks & Public Landscaping

Councilmember Keany stated #32, multi-purpose field, might be put at Cottonwood Park and that should be considered in that master plan. Councilmember Maloney noted there might be a possibility of doing multi-use fields jointly with surrounding communities.

Public Comments:

Deb Fahey, 1118 West Enclave Circle, asked Council to set up a program that supports and educates residents and HOAs to help them learn about sustainability options.

DISCUSSION/DIRECTION
POSSIBLE CHANGES TO MARIJUANA REGULATIONS

City Clerk Muth stated as a part of the 2017 Work Plan, City Council asked staff to evaluate if there was a need for changes or updates to the City's current marijuana regulations. She briefly reviewed the current regulations noting the City has one retail store and one combined medical and retail store.

Muth stated Council discussed possible changes at the February 27 City Council meeting and directed staff on the following items:

Things not to change in the regulations:

- Keep the ban on marijuana sales downtown.

Things to change in the regulations:

- Allow stores to be up to 5000 square feet
- Allow production and testing for both retail and medical
- Remove the limit of four retail stores in town

Items about which Council would like further discussion:

- Cultivation – what have other Cities experienced with cultivation
- Distance Options for Retail Sales – look at revising the distance requirements to either 500 feet or 1000 feet or possibly aligning this with liquor regulations.
- Retail Hours

Regarding cultivation, if Council would like to allow cultivation they will need to determine in what zone districts it would be allowed. Most cities allow cultivation only in industrial zoned areas. Council should determine if they would like to have a buffer from any other uses (schools, daycares, etc.) similar to what is done with retail marijuana.

Regarding distances, staff provided six maps that show different buffer options. And, regarding hours, Muth noted all of the retail shops in Louisville, Boulder, Lafayette, and Boulder County currently have the same business hours of 8 am to 10 pm. Council can change those hours if they are interested.

Muth noted Council may want to amend the code to align zoning requirements for retail and medical sales. Currently the areas eligible for medical sales do not align with those available for retail sales.

Based on the direction from tonight's meeting, staff will bring back an ordinance for Council consideration.

Councilmember Maloney asked what is different about the medical and retail zoning. Planning Director Zuccaro noted the zoning use table would need to be amended to have them align.

Councilmember Stolzmann stated she would like to align marijuana store locations with where liquor stores are allowed.

Councilmember Keany noted he is opposed to adding cultivation and noted CTC would likely be the only place it could go and the CTC owner's association could choose to not allow this use.

Mayor Muckle stated he is strongly opposed to adding cultivation.

Councilmember Stolzmann noted the mix of allowed uses in the industrial zone districts are far more hazardous than marijuana cultivation. She noted the CTC owners association could exclude things if they wanted to. She felt cultivation and production were consistent uses with other industries.

Mayor Pro Tem Lipton asked about revenue the City might derive. He noted the City does not limit breweries so why marijuana.

Councilmember Maloney stated he is in favor of adding cultivation. He doesn't want to preclude a business that might add future revenue.

Councilmember Loo noted a report she had sent to Council members concerning energy use and the marijuana industry noting it was high in comparison to other

industries. She asked about the impact on our wish to be more sustainable. She had not made up her mind but noted she was not particularly positive toward it currently.

Councilmember Maloney said he thought the industry had transitioned to LED lighting and the impact on energy use had dropped. He felt the report was dated.

Councilmember Loo said she had talked to a Boulder County employee who reported this was accurate information.

Mayor Pro Tem Lipton asked if the City would impose similar energy requirements on other users. He questioned if marijuana is looked at differently just because it is marijuana. He wants to be consistent with other types of uses.

Councilmember Keany stated he has not heard from residents saying there were not enough marijuana stores. He is not opposed to considering adjusting the code for locations or number of facilities but he doesn't feel the community was asking for cultivation or extending hours.

Mayor Muckle didn't feel the cultivation business would bring value. He noted he had heard working next to a cultivation business was a problem due to the odors. He has heard that working next to a cultivation site is very unpleasant and he knew of one business that closed because of odor from a cultivation site. He noted he had no personal issue with marijuana being legal at the state level but noted it is still illegal at the federal level and he is concerned about contributing to smuggling operations in other states. He felt changing our regulations is fixing a problem that doesn't exist and we are already meeting the demands of our own citizens. He has no issue with increasing store size and matching retail and medical regulations.

Members discussed specific direction on the items they would like to see in a draft ordinance.

Mayor Pro Tem Lipton stated he would like more information on cultivation, specifically if there are economic benefits to allowing cultivation.

Councilmember Maloney would like more information about how other municipalities are controlling odor for cultivation.

Councilmember Loo asked if staff could determine if the Colorado Tech Center would even allow cultivation as a use.

Members agreed to a draft ordinance allowing stores to be up to 5000 sf; aligning medical and retail testing and production rules and add the use in industrial areas; and removing the limit of 4 retail stores.

Councilmember Stolzmann stated she would like to align the distance rules for retail marijuana with the liquor laws. Councilmember Maloney agreed.

Members were not in agreement about the downtown ban and asked staff to bring an ordinance that leaves the ban but it could be removed if Council so desires.

Members had varying ideas on the store hours. Councilmember Stolzmann didn't feel the need to be so restrictive while others were ok with the hours as set. Staff will bring the draft ordinance with no change.

For distances, members decided to bring the new ordinance with a distance requirement of 500 feet from first grade and higher and a requirement of 1500 feet between stores.

Staff will bring back an ordinance for consideration.

RETURN TO EXECUTIVE SESSION

The City Clerk read the statement required by City Code.

Attorney Light stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation, which includes actual pending lawsuits as well as situations where the person requesting the session believes in good faith that a lawsuit may result. An executive session for this purpose is also authorized by Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

For this executive session, the City Manager and City Attorney are requesting an executive session for consultation with the City Attorney regarding pending litigation, which in this case does not involve any pending lawsuits to which the City is a party but two situations where lawsuits against the City may result.

Mayor Muckle moved to go into executive session for the purpose of consultation with the attorneys representing the City with respect to pending litigation on two items, and that the executive session include the City Manager, City Attorney, and Planning Director. Councilmember Stolzmann seconded the motion. Voice vote passed 6-0.

Adjourned to Executive Session at 9:42 pm.

Returned from Executive Session at 10:27 pm

REPORT – DISCUSSION/DIRECTION/ACTION – PENDING LITIGATION

City Attorney Light reported the purpose of the executive session was for the discussion of possible lawsuits. There is no need for action tonight.

SUBJECT: **DISCUSSION/DIRECTION – UPDATES TO REGULATIONS FOR MEDICAL AND RETAIL MARIJUANA BUSINESSES, AND CULTIVATION, TESTING AND MANUFACTURING OF MARIJUANA PRODUCTS**

DATE: **NOVEMBER 5, 2018**

PRESENTED BY: **ROB ZUCCARO, AICP, PLANNING & BUILDING SAFETY DIRECTOR**
MEREDYTH MUTH, CITY CLERK

SUMMARY:
Based on initial direction from City Council, staff has drafted two versions of a revised ordinance addressing updated medical and retail marijuana regulations for discussion and direction (Version A and B attached). Based on City Council direction at this meeting, staff anticipates drafting a final draft ordinance for Planning Commission and City Council consideration and public hearing. Version A continues to prohibit cultivation throughout the City and Version B allows cultivation in the Industrial (I) zone district. All other regulations are the same between each version. The following is a summary of the major changes proposed in each version of the ordinance:

Version A (No Cultivation)

- Eliminates the limit of four total retail marijuana businesses in the City.
- Increases the spacing requirement between retail/medical marijuana businesses from 1,320 feet to 1,500 feet.
- Decreases the buffer requirement from a public or private school from 1,320 to 500 feet.
- Eliminates the buffer requirement from 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 businesses (or combined medical/retail business) up to 5,000 square feet. Medical is currently limited to 1,800 square feet, retail is limited to 2,000 square feet and a combined store is limited to 3,800 square feet.
- Expands allowed zone districts where medical marijuana businesses are allowed to 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 in the I zone district, in addition to the current allowance in the C-B zone district.
- Allows retail medical marijuana manufacturing in the I and C-B zone districts. Currently, the code does not allow retail marijuana manufacturing. This matches the current proposal for a medical marijuana businesses.
- Allows medical marijuana businesses and testing in the Planning Community Zone District (PCZD) commercial and office areas, as long as mixed residential is not included in the development. This matches the current allowance for retail marijuana businesses.
- Requires owners to install a ventilation system for any marijuana testing or manufacturing that ensures that no odors are noticeable at an adjoining property line.

Version B (Allows Cultivation)

- Version B includes all of the same proposed changes noted above for Version A.
- Allows medical and retail marijuana cultivation in the I and PCZD-I zone districts. Currently, the code prohibits both medical and retail marijuana cultivation.
- Adds a performance measure that any marijuana cultivation activity shall not result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line.
- Requires owners to install a ventilation system for any marijuana cultivation that ensures that no odors are noticeable at an adjoining property line.

BACKGROUND:

The City adopted its original medical marijuana regulations in 2011 by Ordinance 1590-2011 and Ordinance 1591-2011 (see Attachment 3 for City Council Packet and Minutes) and retail marijuana regulations in 2013 by Ordinance 1649-2013 and Ordinance 1650-2013 (see Attachment 4 for City Council Packet and Minutes). The ordinances allowed marijuana businesses consistent with State Amendments 20 and 64, which legalized medical and marijuana businesses under State Law. In 2014, the City updated the code to prohibit marijuana clubs by Ordinance 1667-2014 (see Attachment 5 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 C-B zone district and medical and retail testing as a special review use in several other office and business zone districts. Currently, the City has issued licenses for one retail business and one combined

medical and retail business, both located at Colony Square shopping center, located southwest of McCaslin Blvd. and Dillon Rd. No licenses for testing facilities have been issued.

The following is a summary of the main regulations contained in the current code:

- A marijuana business may not be locate within 1,320 feet of: 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 child care facility.
- Medical and retail businesses are not allowed in Downtown.
- A medical business is limited to 1,800 square feet.
- A retail business is limited to 2,000 square feet.
- A shared retail/medical store is limited to 3,800 square feet.
- Hours of operation of medical and retail businesses is limited to 8 am – 10 pm.
- There are limitations on the language and design of signage.
- There is a limit of four retail stores allowed in the City.

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 and April 17, 2018 and provided the following direction to staff to develop draft regulations for further discussion.

- 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 1500 feet between stores.
- Allow for manufacturing in industrial areas.
- Create a draft of the ordinance that allows cultivation in industrial areas and research issues related to odor as a potential negative impact from cultivation.

ANALYSIS:

Medical and Retail Marijuana Businesses

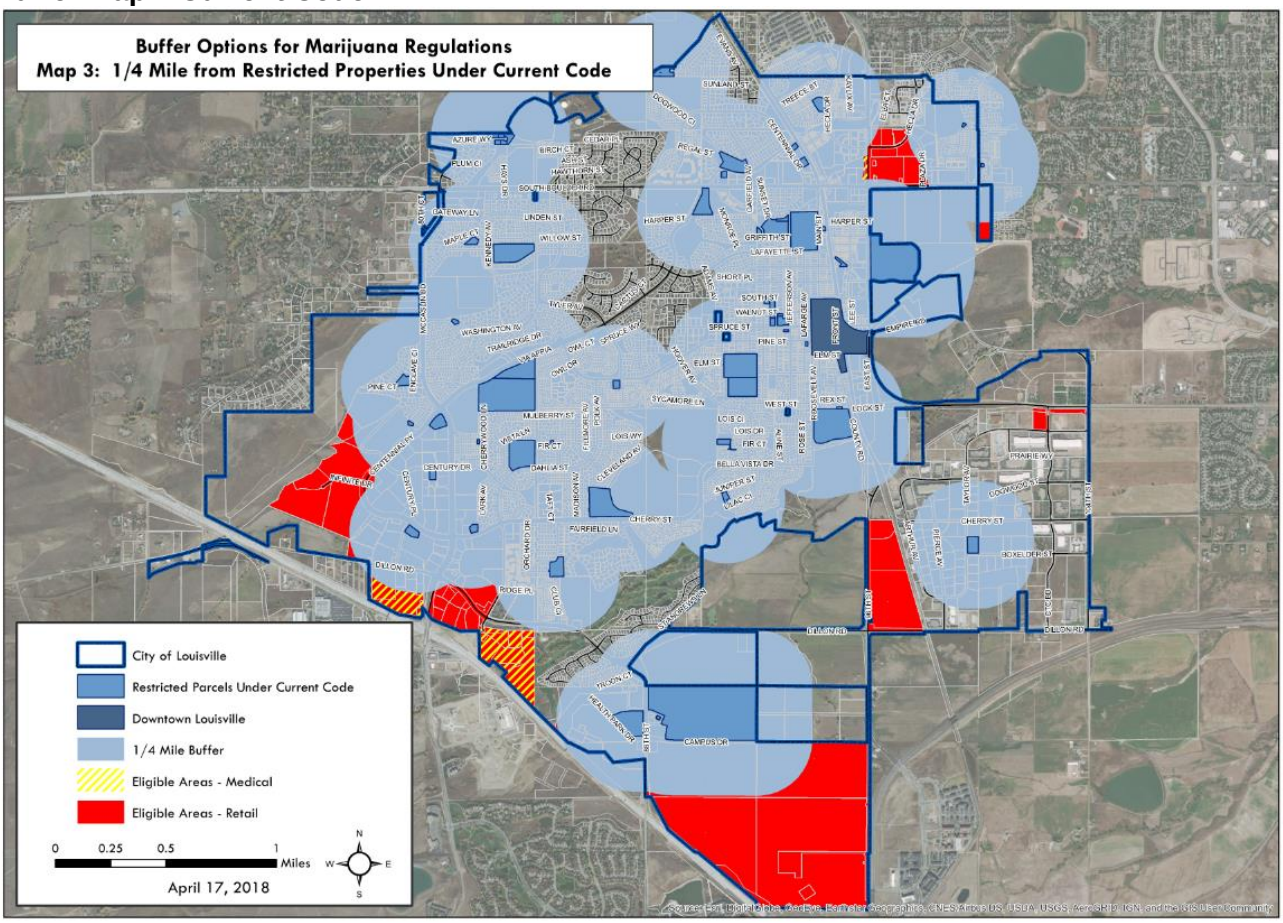
Based on the City Council's direction to align the marijuana business code with liquor regulations the draft ordinances remove the cap on the number of marijuana businesses, increase the spacing between businesses (1,320 to 1,500 feet), limit the buffer requirement to public and private schools with grades K through 12 and reduce the buffer from 1,320 to 500 feet. The draft ordinances also adjust the zone districts where marijuana businesses would be allowed. The April 17, 2018 City Council packet contains several maps of the City showing different buffer scenarios of 500 and 1,000 feet and a quarter mile buffer. Some of the City Council discussion presumed that the impacts to the community and children from liquor and marijuana stores are generally the same so these businesses should be regulated the same. The following table provides a comparison of the City's current marijuana and liquor regulations.

Comparison of Current Marijuana and Liquor Regulations

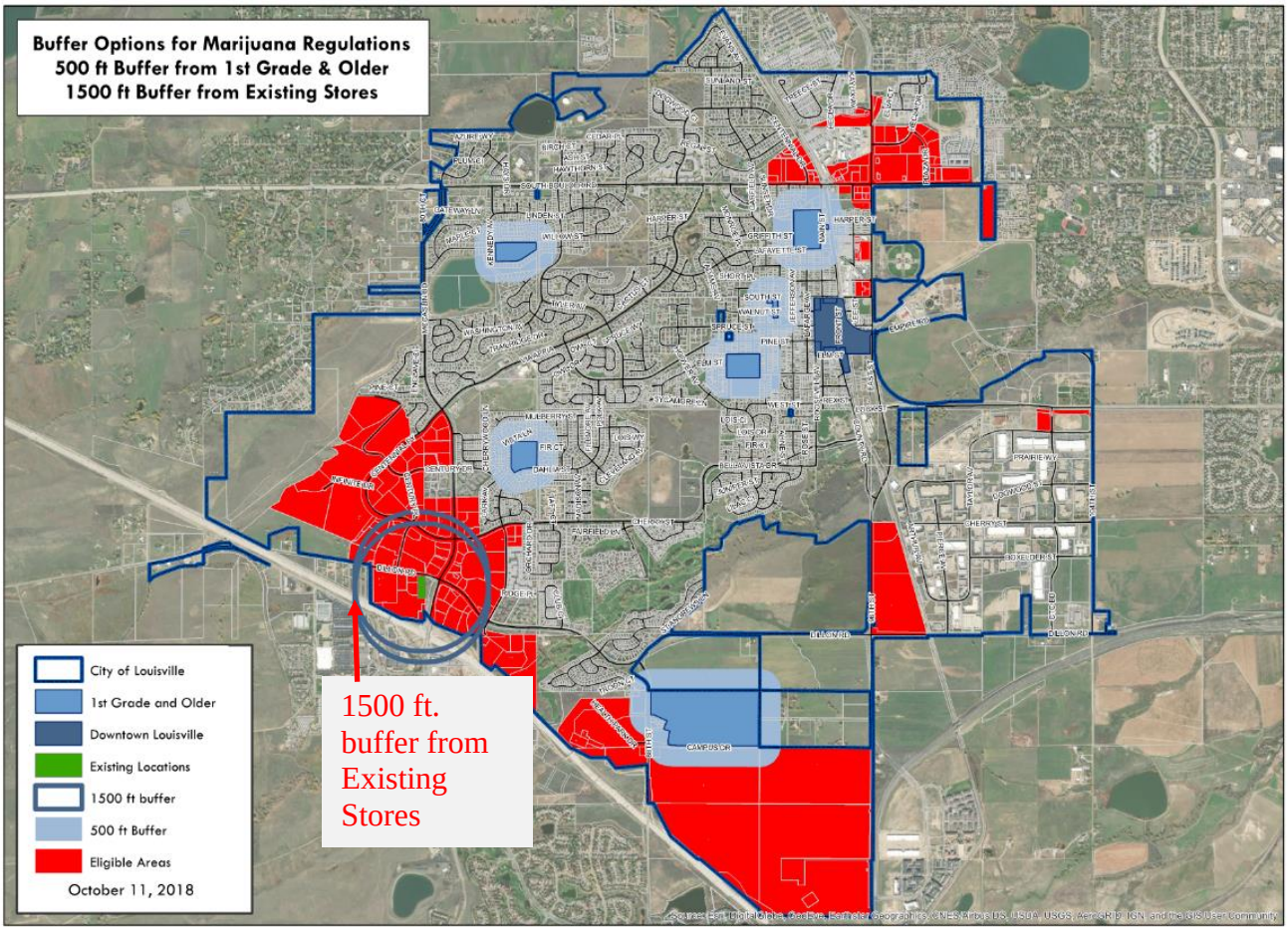
	Marijuana Regs	Liquor Regs
Land Use and Other Regulations	Must be 1,320 feet from any daycare or school. This is set by municipality.	Must be 500 feet from any school 1st grade and higher. This is set by state law, but municipality may decrease the distance.
	New stores may not be within 1,320 feet of another store. This is set by municipality.	New retail stores may not be within 1,500 feet of another retail store. State law.
		May deny a license for "undue concentration."
	Municipality may ban this use in certain areas, i.e. downtown.	Statute doesn't allow municipality to ban liquor as a use in an area.
	Municipality may set hours of operation.	Hours of operation set by state law.
	Municipality may do a complete ban	Municipality may do a complete ban
	Landlord may choose to not rent to a marijuana use.	
	Collect local sales tax.	Collect local sales tax.
	May impose additional excise tax. Requires TABOR election.	
Licensing	All license types set by state law.	All license types set by state law.
	Must have a signed lease to apply for a license.	Must have a signed lease to apply for a license.
	Apply first to the state. State then sends license application to the municipality.	Apply first to the municipality. Municipality then sends license application to the state.
	State fees and local fees. Local fees set at the discretion of the municipality.	State fees and local fees. Local fees are limited by the state. (Louisville fees are much lower than the established limit.)
	All employees required to have state issued "red card." Includes state mandated training for support personnel.	Local training sessions encouraged for all employees, not required.
	Background checks required of all employees (part of "red card" application).	Background checks required of all owners of more than 10% and managers.
	Requires LLA Public Hearing and approval for a license	Requires LLA Public Hearing and approval for a license

A buffer map showing where business could locate under the current code is included below and full size map is attached for reference (Attachment 8). A buffer map showing allowed areas that business could be located under the proposed regulations with reduced buffer is included on the following page and a full size map is attached for reference (Attachment 9). The proposed buffer map also shows the 1,500-foot buffer from the City's existing stores. The new regulations significantly 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 overall limit of four marijuana businesses is removed, the 1,500-foot spacing requirement between businesses will provide some limit on the total number, and ensure no single commercial area of the City becomes inundated with marijuana businesses.

Buffer Map – Current Code



Buffer Map – Proposed Code



The following table compares the City's marijuana regulations to other local jurisdictions. Of the communities that allow marijuana businesses, Boulder, Boulder County and Lafayette have buffers 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.

Comparison of Regulations in Area Jurisdictions

	Louisville	Boulder	Boulder County	Lafayette	Broomfield	Superior
Retail Sales	Allow	Allow	Allow	Allow	COMPLETE BAN	COMPLETE BAN
Medical Sales	Allow	Allow	Allow	Allow		
Retail Product Manufacturing	Not Allow	Allow	Allow	Allow		
Medical Product Manufacturing	Allow	Allow	Allow	Allow		
Retail Marijuana Testing Facility	Allow	Allow	Allow	Allow		
Medical Marijuana Testing Facility	Not Allow	Allow	Allow	Allow		
Retail Cultivation	Not Allow	Allow	Allow	Allow		
Medical Cultivation	Not Allow	Allow	Allow	Allow		
Marijuana Research & Development	Not Allow	Allow	Allow	Allow		
Distance Requirement	1,320 Feet	1,000 Feet	1,000 feet	500 – 1,000 feet		
Limit on # of Retail Stores	4	None	None	3		
Square Footage Restrictions	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.	Dispensaries must be in personal services zones and may not be larger than 3,000 square feet. Grows must be in light industrial zones and may not be larger than 15,000 sq feet. MIPs must be in manufacturing or light industrial and may not be larger than 15,000 sq feet.	None	None		

Testing and Manufacturing

The current code allows medical manufacturing in certain zone districts but not retail manufacturing. Similarly, the code allows retail testing in certain zone districts but medical testing is not allowed. The proposed ordinance aligns the zone districts where the medical and retail testing and manufacturing are allowed and expands these uses into the I zone district. The intent is to treat both medial and retail in the same manner. A comparison table of other communities on the previous page shows that Boulder, Boulder County and Lafayette all allow testing and manufacturing for both medical and retail marijuana.

Added to both versions of the ordinance is a requirement that any testing or manufacturing facilities have a ventilation plan approved by the City that does not allow any odors from leaving the property.

Cultivation

City Council requested a version of the ordinance allowing cultivation in the Industrial (I) zone district as an alternative. 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 they produce odors, attract nuisances and require higher levels of security, and may impact property values and ability to retain and recruit the types of companies that are usually seen in the CTC. Council requested specific research on what other communities have done to address odors. The following table provides a summary of what other communities have done to regulate odors.

Odor Regulations by City

City	How does the city regulate odor?
Fort Collins	Property-related odor violations. More explicit than other codes in restricting "vapors, gas, odors, smoke, dust, heat, or glare".[i]
Breckenridge	Application requires plan for ventilation system. Property related odor violations.[ii]
Denver	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 12-hour period. [iii]
Aurora	Application requires plan for ventilation system. Property-related odor violations.[iv]
Boulder	Application requires plan for ventilation system. [v] Property-related odor violations.[vi] Applicants have to consult an industrial hygienist.[vii] Section of code specifically for marijuana odor emissions. [viii]
Lafayette	Application requires plan for ventilation system. Property-related odor violations.[ix]

Exact code language for each regulation given in endnotes.

Staff contacted several other local jurisdictions that allow cultivation. The following table summarized the findings from these communities:

INFORMATION FROM OTHER JURISDICTIONS

	Boulder	Boulder County	Lafayette	Commerce City	Longmont Superior Broomfield
Staffing	Added additional licensing specialist	No staff added	Licensing, background investigations, inspections, patrolling, etc., have been absorbed by existing staff.	Added part-time police investigator to complete background investigations.	BAN CULTIVATION
Complaints	Odor is most frequent community compliant. Have 7 areas with active odor investigations and required mitigation.	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.	One odor violation. The licensee installed new ventilation equipment to mitigate the problem.	Minor issues with odor at production site, cultivations just coming on line so don't have information on those.	
Security	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.	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.	None.	Minor issues with break ins for production sites	
Number of Cultivation Licenses	53	30	6	6	

Within Version B of the ordinance that allows cultivation, in addition to requiring review of ventilation systems for cultivation, a performance standard is included that would not allow any gas, vapors, odors, smoke, dust, heat or glare that is noticeable beyond the property line where the cultivation occurs.

If the City does desire to allow cultivation, staff recommends the City Council consider an excise tax on cultivation to ensure that the City benefits from allowing this use. Approval of an excise tax would require a ballot referendum and approval by City residents.

Staff reached out to 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, but current staff can perform those tasks. 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 ok with this use.

The Planning Commission will review the final draft ordinance at their December meeting and staff tentatively plans to bring the final draft ordinance to City Council for first reading on January 8 and second reading on January 22.

PUBLIC COMMENTS:
The City has received three comment letters on this topic (attachment #10).

FISCAL IMPACT:
The proposed ordinances include additional standards for ventilation of testing, manufacturing and cultivation activities, which would take additional staff time and resources. If adopted, staff recommends a review of current fees to see if any additional fees are warranted to cover the costs of administering the new regulations. In addition, if the City allows cultivation, staff recommends City Council consider an excise tax.

RECOMMENDATIONS:
Discussion/Direction

ATTACHMENTS:
1. Draft Ordinance Version A (No Cultivation)
2. Draft Ordinance Version B (Allows Cultivation)
3. Link to: March 15, 2011 City Council Packet and Minutes
4. Link to: December 17, 2013 City Council Packet and Minutes
5. Link to: November 3, 2014 City Council Packet and Minutes
6. Link to: February 27, 2018 City Council Packet and Minutes
7. Link to: April 17, 2018 City Council Packet and Minutes

8. Buffer Map Current Code
9. Buffer Map Proposed Code
10. Public Comment Letters

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[i] **Code language**: No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the establishment at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a retail marijuana establishment must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Chapter 15 Licenses and Business Regulations, Article XVII, Division 3, Section 15-621 (c).

[ii] **Code language**: "The growing, cultivation, or processing of marijuana on or within a licensed premises is prohibited unless allowed by the applicable codes and applicable administrative regulations, and the licensed premises are equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the licensed premises." Ordinance 35, Series 2013, codified in Chapter 14 Marijuana Licenses and Regulations, 4-14-25. Ordinance can be found at: http://www.townofbreckenridge.com/Home/ShowDocument?id=7073. Note that the Breckenridge Code is available through http://www.sterlingcodifiers.com/codebook/index.php?book_id=878. All other codes are available through Municode.

[iii] **Code language**: "(1) If odorous contaminants are detected when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air, as measured by any instrument, device, or method designated by the Colorado Air Pollution Control Division to be used in the determination of the intensity of an odor and in the enforcement of Colorado Air Quality Control Commission Regulation 2. (2) If the department receives five (5) or more complaints from individuals representing separate households or businesses within the city within a 30-day period relating to a single odor description, and the department verifies the source of the odor." Chapter 4 Air Pollution Control, Article II, Section 4-10.

[iv] **Code language**: "If, prior to opening to the public, the applicant's building will contain an air filtration system that filters out the odor of marijuana so that the odor cannot be detected by a person at the exterior property line of the lot or parcel on which the retail marijuana store is located, the applicant shall be awarded three points." City can revoke license if an odor can be perceived "at the exterior of the building at the licensed premises, or is perceptible at any adjoining use of the property." Note: Aurora awards licenses based on a point system, with the 4 highest scorers per ward getting the license. Chapter 6 Alcoholic Beverages and Retail Marijuana, Article II, Section 6-309.

[v] **Code language**: "A plan for ventilation of the marijuana business that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marijuana-infused product manufacturers and marijuana testing

facilities, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process. Chapter 16 Recreational Marijuana, Section 6-16-5 (a-12).

[vi] **Code language: "**Ventilation Required. A recreational marijuana business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the recreational marijuana business or at any adjoining use or property." Chapter 16 Recreational Marijuana, Section 6-16-8 (h).

[vii] **Code language:** "The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses." Chapter 16 Recreational Marijuana, Section 6-16-8 (s-2).

[viii] Title 5, Chapter 10 Marijuana Offenses, Section 5-10-6 Marijuana Odor Emissions. See https://library.municode.com/co/boulder/codes/municipal_code?nodeId=TIT5GEOF_CH10MAOF.

[ix] **Code language:** "A plan for ventilation of the retail marijuana establishment that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or at any adjoining property. For retail marijuana establishments that cultivate marijuana, such plan shall also include all ventilation systems used to control the environment for the marijuana plants and describe how such systems operate in conjunction with the systems preventing any odor leaving the premises. For retail marijuana establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process." Chapter 56 Marijuana, Article III, Section 56-265 (b-5). Also stated in Ch. 56, Article III, Section 56-265 (m).

Option A Not Allowing Cultivation Facilites
ORDINANCE NO. ____
SERIES 2018

AN ORDINANCE AMENDING TITLES 5 AND 17 CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES

WHEREAS, the City Council previously adopted licensing standards and regulations governing the time, place, manner, and number of medical and retail marijuana businesses, which such standards and regulations are set forth in Chapters 5.10 and 5.11 and Title 17 of the Louisville Municipal Code; and

WHEREAS, the City Council has determined that certain amendments to said licensing standards and regulations should be adopted, including allowing medical marijuana testing facilities and retail marijuana product manufacturing facilities to operate in the City, changing the distance restrictions and size limitations applicable to medical and retail marijuana businesses and eliminating the cap on the number of retail marijuana stores operating within the City; and

WHEREAS, House Bill 18-1023, which was signed into law on March 22, 2018, relocated the Colorado Medical Marijuana and Retail Marijuana Codes from Title 12 of the Colorado Revised Statutes to Title 44 and the references to such statutes in the Louisville Municipal Code need to be amended accordingly; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has provided its recommendation to the City Council regarding the amendments to Title 17 of the Louisville Municipal Code concerning the matters addressed in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 5.10 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.3 (e.g. C.R.S. § 12-43.3-404) and replacing all such references with "Colorado Medical Marijuana Code."

Section 2. The following definitions in Section 5.10.020 of the Louisville Municipal Code are hereby added or amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.020. Definitions.

Colorado Medical Marijuana Code means Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;

2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or

3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer,~~ or an ongoing nuisance condition emanating from or caused by the medical marijuana business ~~center or medical marijuana-infused products manufacturer.~~

Medical marijuana business shall mean a medical marijuana center, medical marijuana-infused products manufacturer or a medical marijuana testing facility. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.~~

Medical marijuana testing facility means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Premises means the legal parcel of property upon which a medical marijuana business. ~~center or medical marijuana-infused product manufacturer is located~~.

Section 3. Section 5.10.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.030. Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A medical marijuana center license. A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-402~~ to registered patients or primary caregivers, but is not a primary caregiver.

2. A medical marijuana-infused products manufacturing license. A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-404~~.

3. A medical marijuana testing facility license. A medical marijuana testing facility license may be issued to a person who performs testing and research on medical marijuana and medical marijuana-infused products. The facility may develop and test medical marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Medical Marijuana Code and any related rules and regulations.

Section 4. Section 5.10.060.B.6 and C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.060. - Application and fee.

B.6 If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property

authorizing the use of the property for a medical marijuana business ~~center or medical marijuana-infused products manufacturer~~;

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer operation~~, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

Section 5. Section 5.10.070 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.070. - Location criteria; size restrictions.

A. No medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located within 1,500~~1,320~~ feet of another medical marijuana center or a retail marijuana store unless they share premises in accordance with section 5.11.080.F. ~~or medical marijuana infused product manufacturer~~.

B. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located:

1. Within 500~~1,320~~ feet of: 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 child care facility~~;

2. Upon any city property;

3. In a dwelling unit or any residentially zoned districts. ~~; or~~

4. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed~~

~~use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts~~; or~~.~~

5. Within Downtown Louisville as defined by section 17.08.113 of this Code.

C. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000~~1,800~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000~~1,800~~ square feet of leasable floor space.

D. No medical marijuana businesses ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A~~,~~ and B ~~and C~~ of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A~~,~~ and B ~~and C~~ of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

Section 6. Section 5.10.080.E of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.080. - Persons prohibited as licensees.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana business ~~center~~ license ~~or medical marijuana-infused product manufacturer license~~, the applicant shall submit …. [Remainder of section to remain the same]

Section 7. Section 5.10.090.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.090. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ to be operated by the

licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

Section 8. Section 5.10.110.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.110. - Use and display of license.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~.

Section 9. Section 5.10.150 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana business ~~center or medical marijuana-infused products manufacturer~~ shall comply with all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

Section 10. The second paragraph of Section 5.10.160 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.160. - Security requirements.

Security measures at all medical marijuana businesses ~~centers and medical marijuana-infused product manufacturers~~ shall be consistent with all requirements imposed by the state licensing authority and its

rules and regulations as authorized by the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-101 et seq~~. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Section 11. Section 5.10.170 of the Louisville Municipal Code entitled "Required notices" is hereby repealed in its entirety.

Section 12. Section 5.10.210 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is prohibited.

Section 13. Section 5.10.230 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.230. - Visibility of activities; control of emissions.

A. All activities of medical marijuana businesses ~~centers and medical marijuana infused product manufacturers~~, including, without limitation, processing, displaying, selling and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana business ~~center or infused product manufacturer~~ so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business ~~center or infused product manufacturer~~, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe,

sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 14. Section 5.10.320.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.320. - Other laws remain applicable.

C. If the state or federal government prohibits the activities ~~sale or other distribution~~ of ~~marijuana through~~ of any medical marijuana business ~~centers or medical marijuana-infused products manufacturers~~, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Section 15. Chapter 5.11 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.4 (e.g. C.R.S. § 12-43.4-306) and replacing all such references with "Colorado Retail Marijuana Code."

Section 16. The following definitions in Section 5.11.020 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.020. Definitions.

Colorado Retail Marijuana Code means ~~Article 43.4 of Title 12~~ Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

~~*Public playground* means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.~~

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 17. Section 5.11.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.030. Classes ~~and number~~ of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-402~~ and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana and industrial hemp. The facility may develop and test retail marijuana products and industrial hemp, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-405~~ and any related rules and regulations.

3. A retail marijuana products manufacturing license. A retail marijuana products manufacturing license may be issued to a person who manufactures retail marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code and any related rules and regulations.

~~B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.~~

Section 18. Section 5.11.080 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.080. - Location criteria; co-location.

A No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

B.~~A.~~ No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 500 ~~1,320~~ feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. Upon any city property; or

2. In a dwelling unit or any residentially zoned districts; or

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in Title 17 of this Code.

~~B.~~ C.No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana center ~~business~~ and retail marijuana store ~~establishment~~ sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

~~C.~~D. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

~~D.~~ E. The distances described in subsections A and B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A and B above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

~~E.~~ F. Medical marijuana businesses and retail marijuana

establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. A medical marijuana-infused products manufacturer and a retail marijuana products manufacturing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

4. A medical marijuana testing facility and a retail marijuana testing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

~~3~~.5. Co-located licensed operations shall be operated in

accordance with all applicable state and local, rules and regulations.

Section 19. Section 5.11.180 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.180. - Cultivation~~,~~ and growing~~, and manufacturing~~.

The cultivation and growing of marijuana plants a~~nd the manufacturing of retail marijuana products~~ is prohibited within the City of Louisville, except as permitted for nonretail purposes under Article XVIII, Sections 14 and 16 of the Colorado Constitution, consistent with all applicable state or local laws, rules or regulations. It is unlawful for any person to operate, cause to be operated or permit to be operated in the city a marijuana cultivation facility~~ or a retail marijuana products manufacturing facility~~.

Section 20. Section 9.76.030.B of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 9.76.030. - Public consumption of marijuana prohibited.

B. It shall be unlawful for any person to consume marijuana on the premises of a medical marijuana business ~~center, medical marijuana-infused products manufacturing facility, retail marijuana store~~ or retail marijuana establishment ~~products manufacturing facility~~, as defined in sections 5.10.020 and 5.11.020 of this Code, respectively.

Section 21. Section 17.08.321 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.321. – Medical marijuana.

A.1. Medical marijuana business. Medical marijuana business means a medical marijuana center, medical marijuana-infused products manufacturer or a medical marijuana testing facility. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for~~

~~medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution~~.

2. Medical marijuana center. Medical marijuana center means a person licensed pursuant to this code to operate a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-402~~ and Chapter 5.10 of this Code that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

3. Medical marijuana-infused products manufacturer. Medical marijuana-infused products manufacturer means a person licensed pursuant to this code to operate a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-404~~ and Chapter 5.10 of this Code.

4. *Medical marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Section 22. Section 17.08.356.A.2 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.356. - Optional premises.

A. 1. *Optional premises* means the premises specified in an application for a medical marijuana center license or medical marijuana-infused products manufacturer license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

2. Optional premises cultivation operation. Optional premises cultivation operation means a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-403~~.

Section 23. The following definitions in Section 17.08.406 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.406. - Retail marijuana.

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility or a retail

marijuana testing facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 24. Section 17.12.030 of the Louisville Municipal Code is hereby amended by revising the following use groups (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.12.030. Use groups.

		Districts																	
Use Groups		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-RR-ER-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I	PC ZD	MUR	OS
29a	Medical Marijuana Center*****	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	Yes	No	~~No~~	No	No
29b	Medical Marijuana -infused products manufacturer*****	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	~~No~~ Yes	~~No~~	No	No
29c	Medical Marijuana Testing Facility*****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No
~~29c~~	~~Optional premises~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~
29d	Optional premises cultivation operation	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~	No	No
52a	Retail Marijuana Store*****	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	No		No	No
52b	Retail Marijuana Cultivation Facility	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~	No	No
52c	Retail Marijuana Products Manufacturing Facility *****	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~ Yes	~~No~~	No	No
52d	Retail Marijuana Testing Facility *****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No

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***** No retail marijuana establishment or medical marijuana business ~~store or retail marijuana testing facility~~ shall be located, permitted or licensed to operate in Downtown Louisville as defined by section 17.08.113 of this Code.

Section 25. Section 17.16.040 of the Louisville Municipal Code is hereby amended by the addition of new use groups to read as follows:

Sec. 17.16.040. - Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; medical marijuana businesses; ~~centers; medical marijuana-infused products manufacturers;~~ medical marijuana optional premises cultivation operations; retail marijuana establishments; retail marijuana cultivation facilities; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 26. Section 17.16.235 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.16.235. - Medical marijuana business.

A. Except for medical marijuana businesses c~~enter and medical marijuana-infused products manufacturer uses~~ in locations permitted under title 17 ~~sections 17.12.030~~ and section 5.10.070 of this Code and licensed pursuant to chapter 5.10 of this Code, and for those activities exempt from licensing under section 5.10.050.B of this Code, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any medical marijuana business.

B. No medical marijuana center shall, at the time it is

established and first licensed by the city, be located within 1,500 feet of another medical marijuana center or retail marijuana store unless they share premises in accordance with section 5.11.080.F of this Code.

C~~B.~~ No medical marijuana establishment ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located:

~~1. Within 1,320 feet of another medical marijuana center or medical marijuana-infused product manufacturer.~~

~~2.~~ 1. Within 500 ~~1,320~~ feet of: 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 child care facility~~;

~~3.~~ 2. Upon any city property;

~~4~~. 3. In a dwelling unit or any residentially zoned districts; ~~or~~

4. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

5. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts~~; or~~.~~

~~C.~~ D. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~1,800~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~1,800~~ square feet of leasable floor space.

~~D.~~ E. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections B and C of this

section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections B and C of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

F. Prior to the issuance of a building permit or any development approval required by this Code, a medical marijuana business that tests or manufactures marijuana or medical marijuana infused products shall submit to the City a plan for ventilation that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining property. For medical marijuana businesses that produce medical marijuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

Section 27. Section 17.16.237 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.16.237. - Retail marijuana establishments.

A. Except for retail marijuana establishments ~~store and retail marijuana testing facility uses~~ in locations permitted under title 17 ~~sections 17.12.030, 17.14.050, 17.72.090 and~~ section 5.11.080 and licensed pursuant to chapter 5.11, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any retail marijuana establishments.

B. No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

C~~B~~. No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall, at the time it is established and first licensed by the city, be located, within 500 ~~1,320~~ feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment ~~store or retail marijuana testing facility~~ shall be located, permitted, or licensed to operate:

1. Upon any city property;

2. In a dwelling unit or any residentially zoned districts;

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in this Title 17.

D~~C.~~ No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

E~~D.~~ No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

F~~E.~~ The distances described in subsection B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment ~~store or retail marijuana testing facility~~ is located.

G. Prior to the issuance of a building permit or any development approval required by this Code, a retail marijuana establishment that tests or manufactures marijuana or retail marijuana products shall submit to the City a plan for ventilation that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or at any

adjoining property. For retail marijuana establishments that produce retail marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

Section 28. The following use groups in Section 17.14.050 of the Louisville Municipal Code are hereby amended to read as follows (words to be added are underlined):

Principal Uses	**CC**	**MU-R**
Commercial Use Group		
Retail Marijuana Store and Medical Marijuana Center	Yes – Except prohibited within Downtown Louisville, as defined by section 17.08.113 of this Code	No
Retail Marijuana Cultivation Facility and Optional Premises Cultivation Facility	No	No
Retail Marijuana Products Manufacturing Facility and Medical Marijuana-Infused Products Manufacturing	No	No
Retail Marijuana Testing Facility and Medical Marijuana Testing Facility	No	No

Section 29. Section 17.72.090.B.21 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.72.090. - Commercial and office.

B. *Uses permitted.* The following commercial and noncommercial uses may be permitted within any planning area designated "commercial" on the adopted planned community development general plan:

21. Retail marijuana stores, ~~and~~ retail marijuana testing facilities, medical marijuana stores and medical marijuana testing

facilities, except the foregoing uses are not allowed in any mixed use project that includes a residential use.

Section 30. The 1,500 foot distance requirement between retail marijuana stores and medical marijuana centers set forth in Sections 5.10.070.A, 5.11.080.A, 17.16.235.B and 17.16.237.B of the Louisville Municipal Code shall not apply to existing retail marijuana stores or medical marijuana centers. For the purposes of this ordinance, the term "existing medical marijuana center" and "existing retail marijuana store" means any medical marijuana center or retail marijuana store that prior to the effective date of this ordinance has been issued the applicable licenses by the State and Local Licensing Authorities and has been lawfully operating in the City.

Section 31. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that anyone part be declared invalid.

Section 32. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 33. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ___ day of ___, 2018.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

_____
Light Kelly, P.C.
City Attorney

DRAFT

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2018.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

DRAFT

Option B Allowing Cultivation Facilities
(revisions to allow cultivation facilities are shown in red font)

ORDINANCE NO. ____
SERIES 2018

AN ORDINANCE AMENDING TITLES 5 AND 17 CONCERNING MEDICAL AND RETAIL MARIJUANA BUSINESSES

WHEREAS, the City Council previously adopted licensing standards and regulations governing the time, place, manner, and number of medical and retail marijuana businesses, which such standards and regulations are set forth in Chapters 5.10 and 5.11 and Title 17 of the Louisville Municipal Code; and

WHEREAS, the City Council has determined that certain amendments to said licensing standards and regulations should be adopted, including allowing medical marijuana testing facilities, retail marijuana product manufacturing facilities, optional premises cultivation operations and retail marijuana cultivation facilities to operate in the City, changing the distance restrictions and size limitations applicable to medical and retail marijuana businesses and eliminating the cap on the number of retail marijuana stores operating within the City; and

WHEREAS, House Bill 18-1023, which was signed into law on March 22, 2018, relocated the Colorado Medical Marijuana and Retail Marijuana Codes from Title 12 of the Colorado Revised Statutes to Title 44 and the references to such statutes in the Louisville Municipal Code need to be amended accordingly; and

WHEREAS, the Louisville Planning Commission, after notice by publication and a public hearing, has provided its recommendation to the City Council regarding the amendments to Title 17 of the Louisville Municipal Code concerning the matters addressed in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 5.10 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.3 (e.g. C.R.S. § 12-43.3-404) and replacing all such references with "Colorado Medical Marijuana Code."

Section 2. The following definitions in Section 5.10.020 of the Louisville Municipal Code are hereby added or amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.020. Definitions.

Colorado Medical Marijuana Code means Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

Good cause for purposes of denying, refusing to renew, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter, any rules promulgated pursuant to this chapter, or any supplemental state or local law, rules, or regulations;

2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; or

3. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the licensed premises is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug related criminal conduct within the licensed premises or proposed licensed premises or in the immediate area surrounding such premises, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer,~~ or an ongoing nuisance condition emanating from or caused by the medical marijuana business ~~center or medical marijuana-infused products manufacturer.~~

Medical marijuana business shall mean a medical marijuana center, medical marijuana-infused products manufacturer, a medical marijuana testing facility or an optional premises cultivation operation. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, package~~s, ~~transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution.~~

Medical marijuana testing facility means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Optional premises means the premises specified in an application for a medical marijuana center license or medical marijuana-infused products manufacturer license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

Optional premises cultivation operation means a business as described in the Colorado Medical Marijuana Code.

Premises means the legal parcel of property upon which a medical marijuana business. ~~center or medical marijuana-infused product manufacturer is located~~.

Section 3. Section 5.10.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.030. Classes of medical marijuana licenses.

A. The local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A medical marijuana center license. A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-402~~ to registered patients or primary caregivers, but is not a primary caregiver.

2. A medical marijuana-infused products manufacturing license. A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this chapter, ~~and~~ the Colorado Medical Marijuana Code and any related rules and regulations ~~C.R.S. § 12-43.3-404~~.

3. A medical marijuana testing facility license. A medical marijuana testing facility license may be issued to a person who

performs testing and research on medical marijuana and medical marijuana-infused products. The facility may develop and test medical marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Medical Marijuana Code and any related rules and regulations.

4. An optional premises cultivation license. An optional premises cultivation license may be issued to a medical marijuana center or a medical marijuana-infused products manufacturer who grows and cultivates medical marijuana at an additional Colorado licensed premises contiguous or not contiguous with the licensed premises of the person's medical marijuana center license or medical marijuana-infused products manufacturing license.

Section 4. Section 5.10.060.B.6 and C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.060. - Application and fee.

B.6 If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana business ~~center or medical marijuana-infused products manufacturer~~;

C. A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business ~~center or medical marijuana-infused products manufacturer operation~~, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals or building permits required by this Code.

Section 5. Sections 5.10.070 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.070. - Location criteria; size restrictions.

A. No medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located within 1,500~~1,320~~ feet of another medical marijuana center or a retail marijuana store unless they share premises in accordance with section 5.11.080.F. ~~or medical marijuana infused product manufacturer~~.

B. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located:

1. Within 500~~1,320~~ feet of: 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 child care facility~~;

2. Upon any city property;

3. In a dwelling unit or any residentially zoned districts. ~~; or~~

4. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN), or commercial community (CC) zone districts~~; or~~.~~

5. Within Downtown Louisville as defined by section 17.08.113 of this Code.

C. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000~~1,800~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000~~1,800~~ square feet of leasable floor space.

D. No medical marijuana businesses ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections A~~,~~ and B ~~and C~~ of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A~~,~~ and B ~~and C~~ of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

Section 6. Section 5.10.080.E of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.080. - Persons prohibited as licensees.

E. At the time of filing an application with the local licensing authority for issuance or renewal of a medical marijuana business ~~center~~ license ~~or medical marijuana-infused product manufacturer license~~, the applicant shall submit …. [Remainder of section to remain the same]

Section 7. Section 5.10.090.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.090. - Duration of license; renewal.

A. Upon issuance of a license, the city shall provide the licensee with one original of such license for each medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ to be operated by the licensee in the city. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

Section 8. Section 5.10.110.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.110. - Use and display of license.

C. Each license shall be continuously posted in a conspicuous location at the licensed premised of the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~.

Section 9. Section 5.10.150 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.150. - Signage and advertising.

All signage and advertising for any medical marijuana business ~~center or medical marijuana-infused products manufacturer~~ shall comply with

all applicable provisions of this chapter, title 17 of this Code, and the city's commercial development design standards and guidelines. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols, and no signage visible outside of the premises shall use any word or phrase other than "medical marijuana" to refer to marijuana. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

Section 10. The second paragraph of Section 5.10.160 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.160. - Security requirements.

Security measures at all medical marijuana businesses ~~centers and medical marijuana-infused product manufacturers~~ shall be consistent with all requirements imposed by the state licensing authority and its rules and regulations as authorized by the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-101 et seq~~. The local licensing authority shall have the authority to impose additional security requirements upon a licensee as part of any order or stipulation issued in connection with a proceeding for suspension or revocation of a license.

Section 11. Section 5.10.170 of the Louisville Municipal Code entitled "Required notices" is hereby repealed in its entirety.

Section 12. Section 5.10.180 of the Louisville Municipal Code (entitled "Cultivation and growing by licensees") is hereby repealed in its entirety.

Section 13. Section 5.10.210 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.210. - On-site consumption of medical marijuana.

The consumption, ingestion or inhalation of medical marijuana on or within the licensed premises of a medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is prohibited.

Section 14. Section 5.10.220.A.8 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.220. Prohibited acts.

A. It shall be unlawful for any licensee to:

8. Cultivate or permit the cultivation of medical marijuana ~~on the licensed premises~~ outside of a locked enclosed space within a building.

Section 15. Section 5.10.230 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.230. - Visibility of activities; control of emissions.

A. All activities of medical marijuana businesses ~~centers and medical marijuana infused product manufacturers~~, including, without limitation, processing, displaying, selling, cultivation and storage, shall be conducted indoors.

B. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana business ~~center or infused product manufacturer~~ so as to be visible from outside the licensed premises.

C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business ~~center or infused product manufacturer~~, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 16. Section 5.10.320.C of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.10.320. - Other laws remain applicable.

C. If the state or federal government prohibits the activities ~~sale or other distribution~~ of ~~marijuana through~~ of any medical marijuana business ~~centers or medical marijuana-infused products manufacturers~~, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Section 17. Chapter 5.11 of the Louisville Municipal Code is hereby by amended by deleting all the references to the statutes in Colorado Revised Statutes Title 12, Article 43.4 (e.g. C.R.S. § 12-43.4-306) and replacing all such references with "Colorado Retail Marijuana Code."

Section 18. The following definitions in Section 5.11.020 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.020. Definitions.

Colorado Retail Marijuana Code means ~~Article 43.4 of Title 12~~ Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

~~*Public playground* means a city-owned outdoor public area used for play or recreation by children containing recreational equipment such as slides or swings.~~

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 19. Section 5.11.030 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.030. Classes ~~and number~~ of retail marijuana licenses authorized.

A. The local licensing authority may issue only the following retail marijuana licenses upon payment of the fee and compliance with all local licensing requirements, as determined by the local licensing authority:

1. A retail marijuana store license. A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-402~~ and any related rules and regulations.

2. A retail marijuana testing facility license shall be issued to a person who performs testing and research on retail marijuana and industrial hemp. The facility may develop and test retail marijuana products and industrial hemp, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code ~~C.R.S. § 12-43.4-405~~ and any related rules and regulations.

3. A retail marijuana products manufacturing license. A retail marijuana products manufacturing license may be issued to a person who manufactures retail marijuana products, pursuant to the terms and conditions of this chapter, the Colorado Retail Marijuana Code and any related rules and regulations.

4. A retail marijuana cultivation facility license. A retail marijuana cultivation facility license may be issued to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, retail marijuana products manufacturing licensees, or other retail marijuana cultivation facilities.

~~B. There shall be no more than four licensed retail marijuana stores operating within the city. If at the time of application for a retail marijuana store license there are fewer than four retail marijuana stores operating in the city, applications shall be reviewed and acted upon by the local licensing authority in the order in which complete applications are received.~~

Section 20. Section 5.11.080 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.080. - Location criteria; co-location.

A No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

B.~~A.~~ No retail marijuana establishment shall, at the time it is established and first licensed by the city, be located within 500 ~~1,320~~

feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment shall be located, permitted, or licensed to operate:

1. Upon any city property; or

2. In a dwelling unit or any residentially zoned districts; or

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in Title 17 of this Code.

~~B.~~ C.No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana center ~~business~~ and retail marijuana store ~~establishment~~ sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

~~C.~~D. No retail marijuana establishment shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

~~D.~~ E. The distances described in subsections A and B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections A and B above to the nearest portion of the building or unit in which the retail marijuana establishment is located.

~~E.~~ F. Medical marijuana businesses and retail marijuana establishments are subject to the following shared licensed premises and operational separation requirements:

1. A medical marijuana center that does not authorize patients under the age of 21 years to be on the premises, may also hold a retail marijuana store license and operate a dual retail business operation on the same licensed premises. In such case the medical marijuana center licensee must post signage that clearly conveys that persons under the age of 21 years may not enter. Under these circumstances and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share the same entrances and exits, and medical marijuana and retail marijuana may be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the local and state licensing authorities and city to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

2. A medical marijuana center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its licensed premises with a retail marijuana establishment. The two shall not be co-located in this instance and shall maintain distinctly separate licensed premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. A medical marijuana-infused products manufacturer and a retail marijuana products manufacturing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

4. A medical marijuana testing facility and a retail marijuana testing facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

5. An optional premises cultivation facility and retail marijuana cultivation facility may share a single licensed premises and operate at the same location upon the approval of the state and local licensing authorities and subject to all applicable state and local, rules and

regulations, including not limited to the requirements for virtual or physical separation between the retail and medical marijuana-related inventory.

~~3~~.6. Co-located licensed operations shall be operated in accordance with all applicable state and local, rules and regulations.

Section 21. Section 5.11.180 of the Louisville Municipal Code (entitled "Cultivation, growing and manufacturing") is hereby repealed in its entirety.

Section 22. Section 5.11.210.A of the Louisville Municipal Code is hereby amended by the addition of a new subsection 10 to read as follows (words to be added are underlined):

Sec. 5.11.210. Prohibited acts.

A. It shall be unlawful for any licensee to:

10. Cultivate or permit the cultivation of retail marijuana outside of a locked enclosed space within a building.

Section 23. Section 5.11.220.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 5.11.220. - Visibility of activities; control of emissions.

A. All activities of retail marijuana establishments, including, without limitation, processing, displaying, selling, cultivation and storage, shall be conducted indoors.

Section 24. Section 9.76.030.B of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 9.76.030. - Public consumption of marijuana prohibited.

B. It shall be unlawful for any person to consume marijuana on the premises of a medical marijuana business ~~center, medical marijuana-infused products manufacturing facility, retail marijuana store~~ or retail marijuana establishment ~~products manufacturing facility~~, as defined in sections 5.10.020 and 5.11.020 of this Code, respectively.

Section 25. Section 17.08.321 of the Louisville Municipal Code is hereby

amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.321. – Medical marijuana.

A.1. Medical marijuana business. Medical marijuana business means a medical marijuana center, medical marijuana-infused products manufacturer, a medical marijuana testing facility or an optional premises cultivation operation. ~~any person acting alone or in concert with another person, whether for profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of the plant (genus) cannabis, or any mixture or preparation thereof, for medical use as authorized by Article XVIII, Section 14 of the Colorado Constitution~~.

2. Medical marijuana center. Medical marijuana center means a person licensed pursuant to this code to operate a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-402~~ and Chapter 5.10 of this Code that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

3. Medical marijuana-infused products manufacturer. Medical marijuana-infused products manufacturer means a person licensed pursuant to this code to operate a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-404~~ and Chapter 5.10 of this Code.

4. *Medical marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of medical marijuana.

Section 26. Section 17.08.356.A of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.356. - Optional premises.

A. 1. *Optional premises* means the premises specified in an application for a medical marijuana center license or medical marijuana-infused products manufacturer license with related growing facilities in Colorado for which the application seeks authorization to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

2. Optional premises cultivation operation. Optional premises cultivation operation means a business as described in the Colorado Medical Marijuana Code ~~C.R.S. § 12-43.3-403~~.

Section 27. The following definitions in Section 17.08.406 of the Louisville Municipal Code are hereby amended (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.08.406. - Retail marijuana.

Retail marijuana establishment means a retail marijuana store, retail marijuana products manufacturing facility, a retail marijuana testing facility or a retail marijuana cultivation facility.

Retail marijuana testing facility means an entity licensed to analyze and certify the safety and potency of retail marijuana.

Section 28. Section 17.12.030 of the Louisville Municipal Code is hereby amended by revising the following use groups (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.12.030. Use groups.

		Districts																	
Use Groups		A	A-O	B-O	A-OT	R-RR	SF-R	SF-E	R-RR-ER-L	SF-LD SF-MD SF-HD	R-M	R-H	C-N	C-C	C-B	I	PC ZD	MUR	OS
29a	Medical Marijuana Center*****	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	Yes	No	~~No~~	No	No
29b	Medical Marijuana -infused products manufacturer*****	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	~~No~~ Yes	~~No~~	No	No
29c	Medical Marijuana Testing Facility*****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No
~~29c~~	~~Optional premises~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~	~~No~~
29d	Optional premises cultivation operation*****	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~	No	No

52a	Retail Marijuana Store*****	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	No		No	No
52b	Retail Marijuana Cultivation Facility*****	No	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~	No	No
52c	Retail Marijuana Products Manufacturing Facility *****	No	No	No	No	No	No	No	No	No	No	No	No	No	~~No~~ Yes	~~No~~ Yes	~~No~~	No	No
52d	Retail Marijuana Testing Facility *****	No	R	R	No	No	No	No	No	No	No	No	No	No	R	Yes		No	No

***** No retail marijuana establishment or medical marijuana business ~~store or retail marijuana testing facility~~ shall be located, permitted or licensed to operate in Downtown Louisville as defined by section 17.08.113 of this Code.

Section 29. Section 17.16.040 of the Louisville Municipal Code is hereby amended by the addition of new use groups to read as follows:

Sec. 17.16.040. - Home occupations.

H. The following uses, because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area, shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; medical marijuana businesses; ~~centers; medical marijuana-infused products manufacturers;~~ medical marijuana optional premises cultivation operations; retail marijuana establishments; retail marijuana cultivation facilities; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this title which describe or depict specified sexual activities or specified anatomical areas.

Section 30. Section 17.16.235 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted

are ~~stricken through~~):

Sec. 17.16.235. - Medical marijuana business.

A. Except for medical marijuana businesses c~~enter and medical marijuana-infused products manufacturer uses~~ in locations permitted under title 17 ~~sections 17.12.030~~ and section 5.10.070 of this Code and licensed pursuant to chapter 5.10 of this Code, and for those activities exempt from licensing under section 5.10.050.B of this Code, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any medical marijuana business.

B. No medical marijuana center shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another medical marijuana center or retail marijuana store unless they share premises in accordance with section 5.11.080.F of this Code.

C~~B.~~ No medical marijuana establishment ~~center or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located:

~~1. Within 1,320 feet of another medical marijuana center or medical marijuana-infused product manufacturer.~~

~~2.~~ 1. Within 500 ~~1,320~~ feet of: 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 child care facility~~;

~~3.~~ 2. Upon any city property;

~~4.~~ 3. In a dwelling unit or any residentially zoned districts; ~~or~~

4. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

5. Within any zone district or other area where the medical marijuana business is not a permitted use or approved special review use as provided in Title 17 of this Code ~~the agricultural (A), open space (OS) administrative office (AO), business office (BO), administrative office transitional (AO-T), industrial (I), planned community zone district (PCZD), mixed use (MU-R), commercial neighborhood (CN),~~

~~or commercial community (CC) zone districts~~; or~~.~~

~~C.~~ D. No licensed premises for a medical marijuana center ~~or medical marijuana-infused product manufacturer~~ shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~1,800~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~1,800~~ square feet of leasable floor space.

~~D.~~ E. No medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ shall operate as an outdoor or transient retailer, vendor or peddler.

E. The distances described in subsections B and C of this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsections B and C of this section to the nearest portion of the building or unit in which the medical marijuana business ~~center or medical marijuana-infused product manufacturer~~ is located.

F. No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the establishment at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a medical marijuana business must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a medical marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

G. Prior to the issuance of a building permit or any development approval required by this Code, a marijuana business that cultivates, tests or manufactures medical marijuana or medical marijuana infused products shall submit to the City a plan for ventilation that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining property. For medical marijuana businesses that cultivate marijuana, such plan shall also include all ventilation systems used to control the environment for the marijuana plants and

describe how such systems operate in conjunction with the systems preventing any odor leaving the premises. For medical marijuana businesses that produce medical marijuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

Section 31. Section 17.16.237 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.16.237. - Retail marijuana establishments.

A. Except for retail marijuana establishments~~ store and retail marijuana testing facility uses~~ in locations permitted under title 17 ~~sections 17.12.030, 17.14.050, 17.72.090 and~~ section 5.11.080 and licensed pursuant to chapter 5.11, it is unlawful for any person to operate, cause to be operated or permit to be operated in the city any retail marijuana establishments.

B. No retail marijuana store shall, at the time it is established and first licensed by the city, be located within 1,500 feet of another retail marijuana store or a medical marijuana center unless they share premises in accordance with section 5.11.080.F.

C~~B~~. No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall, at the time it is established and first licensed by the city, be located, within 500 ~~1,320~~ feet of: a public or private ~~preschool,~~ elementary, middle, junior high, or high school~~; or a public playground, all as defined in section 5.11.020 of this Code; or a public pool; or an outdoor education facility serving children; or an alcohol or drug treatment facility; or the principal campus of a college, university, or seminary; or a residential child care facility~~.

Further no retail marijuana establishment ~~store or retail marijuana testing facility~~ shall be located, permitted, or licensed to operate:

1. Upon any city property;

2. In a dwelling unit or any residentially zoned districts;

3. Within Downtown Louisville as defined by section 17.08.113 of this Code; or

4. Within ~~the Agricultural (A), Open Space (OS), Administrative Office Transitional (AO-T), Mixed Use (MU-R), or Commercial Neighborhood (CN) zone districts, or~~ any zone district or other zoned area in which the retail marijuana establishment is not a permitted use or approved special review use as provided in this Title 17.

D~~C.~~ No licensed premises for a retail marijuana store shall, at the time it is established and first licensed by the city, be located in a physical space exceeding 5,000 ~~2,000~~ square feet of leasable floor space, nor shall such a licensed premises ever exceed 5,000 ~~2,000~~ square feet of leasable floor space. The maximum physical space occupied by any medical marijuana business and retail marijuana establishment sharing premises shall never exceed 5,000 ~~3,800~~ square feet of leasable floor space.

E~~D.~~ No retail marijuana establishment ~~store or retail marijuana testing facility~~ shall operate as an outdoor or transient retailer, vendor or peddler, or as any temporary or accessory use.

F~~E.~~ The distances described in subsection B above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in subsection A above to the nearest portion of the building or unit in which the retail marijuana establishment ~~store or retail marijuana testing facility~~ is located.

G. No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the establishment at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a retail marijuana establishment must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

G. Prior to the issuance of a building permit or any development approval required by this Code, a retail marijuana establishment that cultivates, tests or manufactures marijuana or retail marijuana products shall submit to the City a plan for ventilation

that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or at any adjoining property. For retail marijuana establishments that cultivate marijuana, such plan shall also include all ventilation systems used to control the environment for the marijuana plants and describe how such systems operate in conjunction with the systems preventing any odor leaving the premises. For retail marijuana establishments that produce retail marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

Section 32. The following use groups in Section 17.14.050 of the Louisville Municipal Code are hereby amended to read as follows (words to be added are underlined):

Principal Uses	**CC**	**MU-R**
Commercial Use Group		
Retail Marijuana Store and Medical Marijuana Center	Yes – Except prohibited within Downtown Louisville, as defined by section 17.08.113 of this Code	No
Retail Marijuana Cultivation Facility and Optional Premises Cultivation Facility	No	No
Retail Marijuana Products Manufacturing Facility and Medical Marijuana-Infused Products Manufacturing	No	No
Retail Marijuana Testing Facility and Medical Marijuana Testing Facility	No	No

Section 33. Section 17.72.090.B.21 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~):

Sec. 17.72.090. - Commercial and office.

B. *Uses permitted.* The following commercial and noncommercial uses may be permitted within any planning area

designated "commercial" on the adopted planned community development general plan:

21. Retail marijuana stores, ~~and~~ retail marijuana testing facilities, medical marijuana stores and medical marijuana testing facilities, except the foregoing uses are not allowed in any mixed use project that includes a residential use.

Section 34. The 1,500 foot distance requirement between retail marijuana stores and medical marijuana centers set forth in Sections 5.10.070.A, 5.11.080.A, 17.16.235.B and 17.16.237.B of the Louisville Municipal Code shall not apply to existing retail marijuana stores or medical marijuana centers. For the purposes of this ordinance, the term "existing medical marijuana center" and "existing retail marijuana store" means any medical marijuana center or retail marijuana store that prior to the effective date of this ordinance has been issued the applicable licenses by the State and Local Licensing Authorities and has been lawfully operating in the City.

Section 35. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that anyone part be declared invalid.

Section 36. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 37. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ___ day of ___, 2018.

DRAFT

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

_____
Light Kelly, P.C.
City Attorney

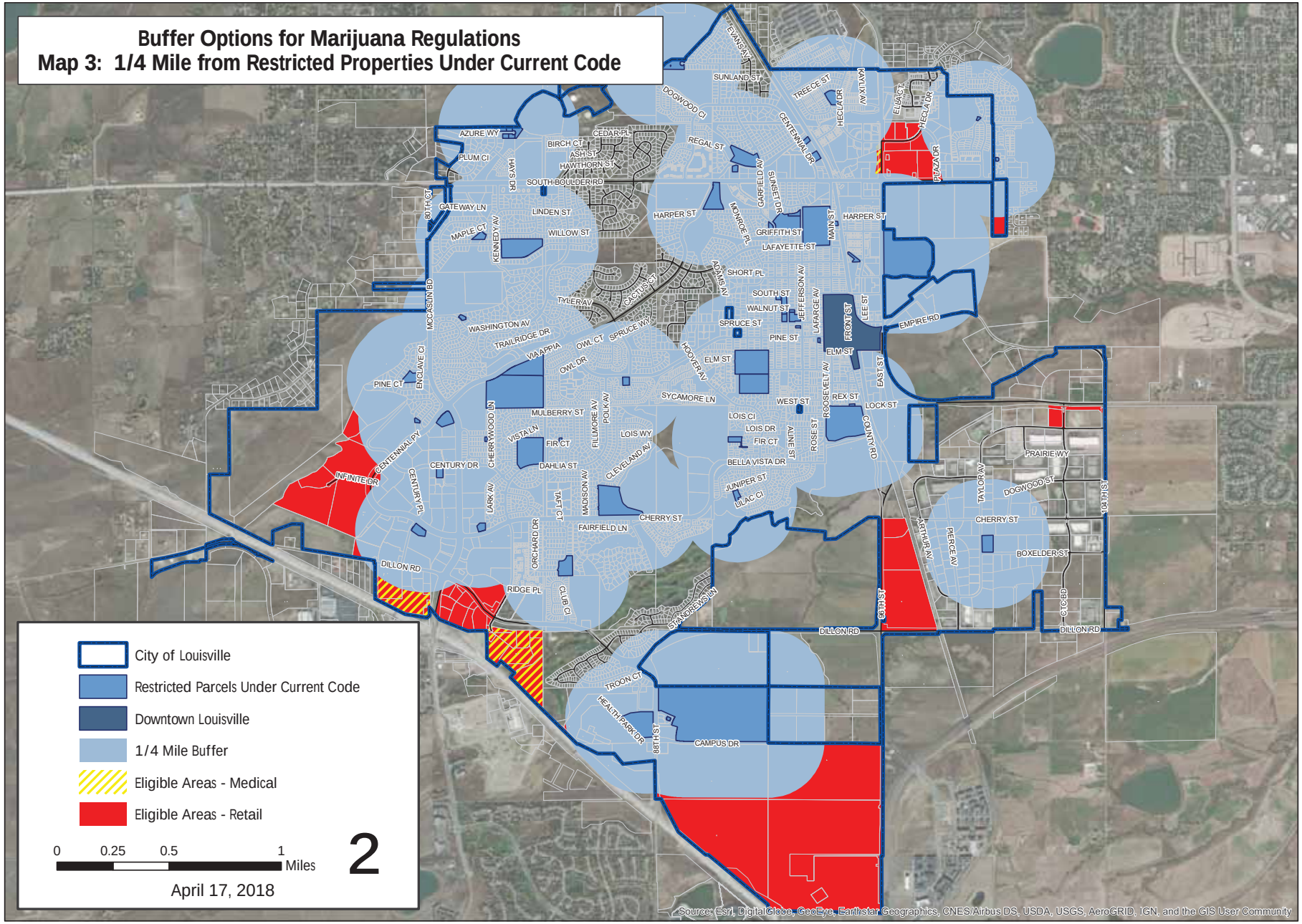
PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2018.

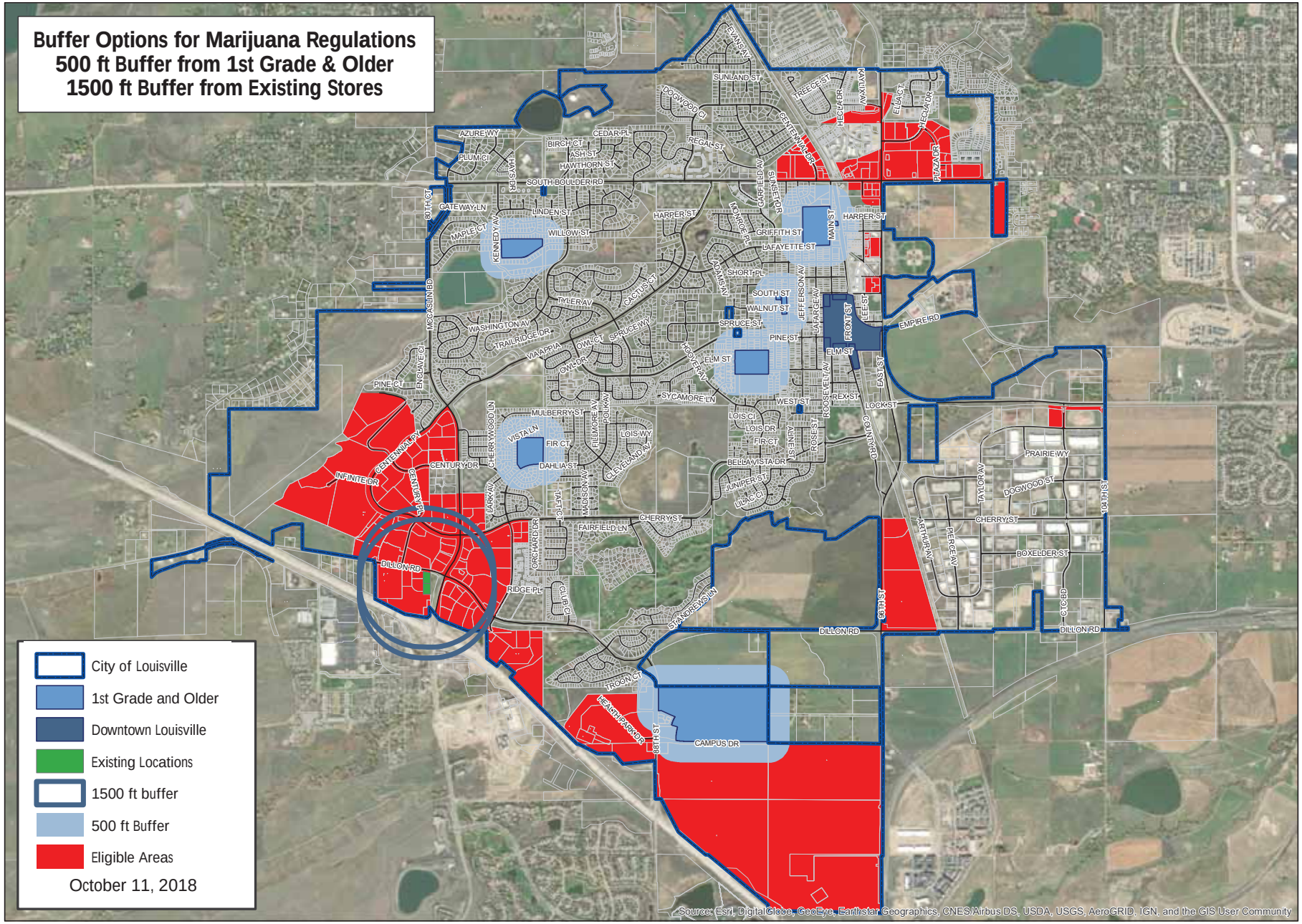
_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

DRAFT


Buffer Options for Marijuana Regulations
Map 3: 1/4 Mile from Restricted Properties Under Current Code
City of Louisville
Restricted Parcels Under Current Code
Downtown Louisville
1/4 Mile Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
2
April 17, 2018
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
500 ft Buffer from 1st Grade & Older
1500 ft Buffer from Existing Stores
City of Louisville
1st Grade and Older
Downtown Louisville
Existing Locations
1500 ft buffer
500 ft Buffer
Eligible Areas
October 11, 2018
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

COLORADO TECHNOLOGY CENTER OWNERS ASSOCIATION, INC.
8390 E Crescent Parkway, Suite 300, Greenwood Village, CO 80111, 303.779.5710

October 4, 2018

City of Louisville Planning Commission
749 Main Street
Louisville, CO 80027

Sent to: PlanningCommission@Louisvilleco.gov

Dear Planning Commission:
The Colorado Tech Center Owners Association (CTCOA) believes Louisville has been thriving under the existing Municipal Code and would prefer that no changes be made to the Code related to expanded medical and retail marijuana uses.

That said, CTCOA opposes sections of the proposed ordinances that would expand medical and retail marijuana uses and we encourage you to exclude these sections from allowed uses in the Industrial and Planned Community (PC) zones and from any recommendation you provide to Louisville's City Council.

CTCOA represents approximately 140 owners that have invested in making Louisville one of the best communities in the United States. Almost 500 acres in size, the Colorado Tech Center is zoned Industrial (~70%) and Planned Community (~30%). Based on land mass, areas zoned Industrial are most impacted by the proposed ordinance, as evidenced by the map on page 2.

CTCOA is governed by a Declaration of Protective Covenants and the CTCOA Board of Directors believes that the expanded uses considered by Louisville are not allowed under the CTCOA Protective Covenants. As such any application for a marijuana-related facility, though permitted by the City, would be likely be denied by the CTCOA. Specifically, Section 2.1 of the Covenants states:

> *No noxious, illegal, dangerous or offensive trade, services or activities shall be conducted on any Building Site nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owners, tenants or occupants of other Building Sites within the property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste smoke or noise.*

Section 2.2 of the Protective Covenants continues with:

> *Building Sites shall be utilized only for engineering, research facilities, laboratories, light industrial uses, offices, distribution and warehousing, and other such uses allowed under local zoning ordinances which Declarant, or its designee, shall permit in its sole discretion.*

As you are likely aware, the cultivation, sale or use of marijuana remains illegal under federal law and CTCOA is strongly opposed to permitting cultivation, either as an "Optional Premises Cultivation Operation" or as a "Retail Marijuana Cultivation Facility" as an allowed use in the City's only Industrial Zoned district. Cultivation is not and will not be an allowed use in CTCOA's Protective Covenants and it is nonsensical for Louisville to allow a use in an Industrial Zone which is not permitted by the Protective Covenants of one of the few areas with industrial zoning.

CTCOA has general concerns about Marijuana Infused Product Manufacturing not aligning with the Protective Covenants or the interests of CTC's owners and tenants, and is also concerned about expanding Marijuana Infused Product Manufacturing from the areas zoned CB to Industrial Zones, due to the potential of creating dramatically larger manufacturing facilities and the associated nuisances. CTCOA does not believe

that Sections 5.10.230 and 5.11.220 B. of the current Municipal Code and proposed ordinances, which place limits on the emission of smoke, odors, debris, dust fluids and other substances from exiting a medical or retail marijuana business, are sufficient to address the myriad of issues that are likely to arise with larger scale marijuana product manufacturing. CTCOA is concerned that strong and diverse management strategies will be necessary, but not available, to address this new, expanded use and encourages Louisville to address how and by whom these businesses will be regulated and publicly share the plans prior to approving this change in use.

CTCOA is also puzzled by the proposed ordinances silence on these expanded uses in PC zoned districts. Approximately 30% of CTC is zoned PC. CTCOA opposes allowing marijuana uses in the PC zone.

Over the past years CTC has grown tremendously, is an economic and jobs driver, and is home to technologically advanced and innovative businesses. CTCOA is concerned that any marijuana-related business may interfere with other current owners, and especially those that offer activities for children, such as the Evo Rock Climbing Gym, Mountain Kids Gymnastics and Apex Movement, as well as the family focused Community Food Shares.

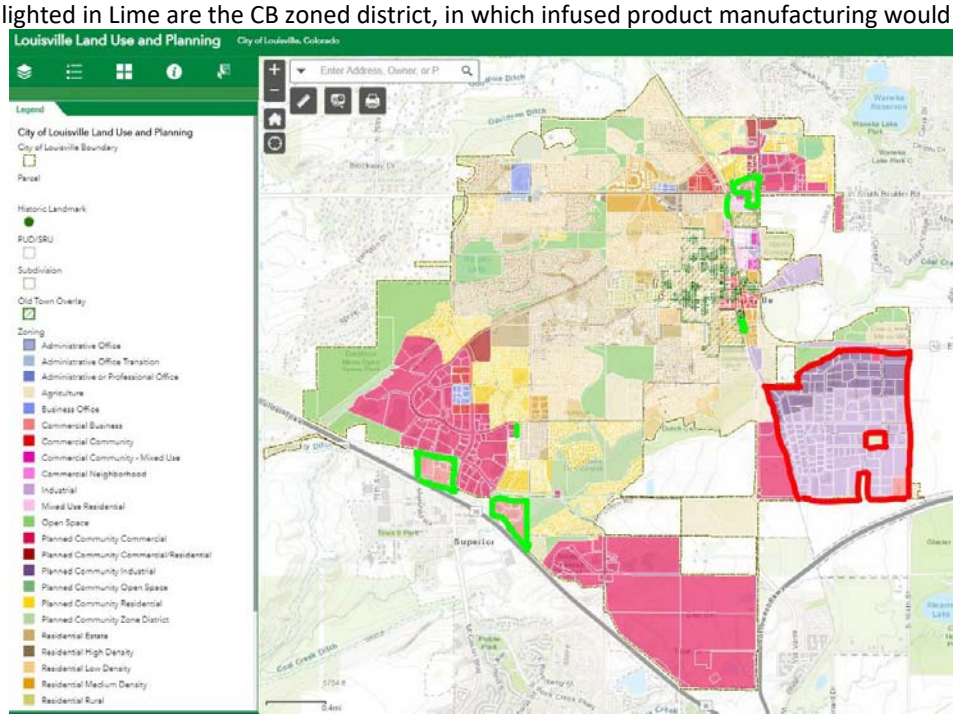
The CTCOA and the City of Louisville have built a good relationship and often coordinate land use approval processes, working together to improve, diversify and grow the strong economic base that is evident in CTC and throughout the City. The CTCOA appreciates your service to Louisville and encourages you to address the issues we have raised, keeping in mind that even if the proposed uses are expanded, they are not likely to be permitted within the Colorado Tech Center.

Sincerely,

Cyndi Thomas

Cyndi Thomas, CTCOA President

Area highlighted in Red is CTC, with ~70% zoned Industrial (the lighter shade of purple)
Areas highlighted in Lime are the CB zoned district, in which infused product manufacturing would be allowed



Rob Zuccaro

Subject: FW: Proposed Updates to the City's Regulations for Medical and Retail Marijuana Businesses

-----Original Message-----
From: Michael Kranzdorf [mailto:mike@amterre.com]
Sent: Tuesday, October 9, 2018 10:10 AM
To: Rob Zuccaro <rzuccaro@louisvilleco.gov>; Planning Commission <PlanningCommission@louisvilleco.gov>; City Council <Council@louisvilleco.gov>
Subject: Proposed Updates to the City's Regulations for Medical and Retail Marijuana Businesses

Hello all,

I am writing in favor of Planning Commission item LMCA-0165-2018, Proposed Updates to the City's Regulations for Medical and Retail Marijuana Businesses. It's a reasonable update given the uncontentious nature of the existing facilities in the McCaslin area. I would propose that the area of downtown east of the railroad tracks comprising the Pine Street Plaza PUD and neighboring properties also be included in the allowed areas. These properties are much more similar to the Highway 42 facing DeLo and Christopher Plaza retail sites than the true downtown area on the west side of the tracks. The City recently purchased a parking lot at DeLo that it advertises as an amenity for downtown parking, so allowing retail sales there seems equivalent to allowing them at Pine Street Plaza. As owner of some of the Pine Street properties, we have no current or future plans to add such a use, but it seems a matter of equity to allow it as part of this update. Disallowing downtown sites has been portrayed as not wanting families and children to walk by these stores during social, shopping, dining and event visits to downtown and I am in complete agreement with this sentiment. The Pine Street area east of the tracks has no such foot traffic. The question of cultivation in industrial areas involves larger changes for regulation and enforcement and I do not have an opinion on this option.

Thank you for your consideration,

Mike Kranzdorf
Amterre Property Group LLC
1100 - 1140 Pine Street
Louisville, CO 80027

Meredyth Muth

From: Andrew Freeman <andrew@wwreynolds.com>
Sent: Tuesday, October 30, 2018 12:22 PM
To: Planning; City Council
Subject: Colorado Technological Center MJ
Attachments: CTCOA Letter to Louisville re Expansion of Marijuana Uses.pdf

To: City Council and Planning Department City of Louisville
From: Andrew Freeman – The WW Reynolds Companies and Freeman Capital Management LLC.
Date: 10/30/2018

I have been working in the Colorado Technological Center since 1990, own two buildings, under contract on 6 acres and completed over 200 acres of land and 750,000 square feet of lease and sale transaction during that period. I am a former board member of the CTC Owners Association and past President of the CTC Metro District.

Respectfully, the attitude expressed in the CTCOA letter attached is not the correct interpretation I have regarding the Marijuana industry and the impact it would have in the Colorado Technological Center. I support the expansion of the code to allow for marijuana and related product warehousing, mfg. and extraction and don't believe they are more noxious uses than many other uses in the park or the multiple retail dispensaries that have been approved and occupy many of the major retail properties in Louisville.

If I understand this correctly, the City of Louisville is now considering a change to the municipal code that would allow expanded medical and retail marijuana uses to include warehouse, manufacturing and extraction of MJ and byproducts such as CBD. I currently may not have all the facts yet and playing a bit of catch up on this issue but understand per Chuck Reid from CliftonLarsonAnderson, manager of the association and metro district, that the attached letter from the President of the association was sent to the City of Louisville but never sent to the building owners for their feedback on this important issue. The issue could have been discussed at the last annual meeting, however (right or wrong) I know from experience that many of the building owner's generally don't show up for these meetings thus probably should not have not been the only point of communication regarding the change in the municipal code.

I believe if the code expansion is approved, it will have a significant positive effect on property values and tax base in the park. Industrial real estate in Boulder, Lafayette and Denver have experienced significant increase in property values without much negative feedback since recreational MJ was approved in Colorado. Ave per square foot building prices for older industrial buildings in the 10,000 to 50,000 square foot range have doubled since the approval, thus has not had a significant effect on properties larger than 75,000 square feet. The impact of this approval will mostly effect the smaller/older buildings in the park such as the property I own at 740 South Pierce and 397 S Taylor – both under 75,000 square feet/Pierce was built in the early 80s.

Medical and recreational MJ is an allowed retail use in Louisville and there are multiple dispensaries in Louisville, and as far as I know the retail property owners are receptive to this use and it is not only not disturbing other tenants, its attracting more people to the centers. Many of these center's include cross fit, coffee shops, popular restaurants and other businesses the generally draw families from the area. My family is a frequent customers of many of the shops in centers occupied by MJ dispensaries along McCaslin. *My mother is 85 years old and buys CBD lotion at one of the dispensaries on McCaslin which assists with her arthritis and other pain she experiences from being a three time cancer survivor.*

Director Watson added this addresses many hail storm issues, but does not address any of the City's property affected by the storm and insurance proceeds which is still to come.

Public Comments – None

Mayor Muckle closed the public hearing.

Councilmember Maloney moved to approve Resolution No. 51, Series 2018; Councilmember Stolzmann seconded.

Voice vote: All in favor.

DISCUSSION/DIRECTION – UPDATES TO REGULATIONS FOR MEDICAL AND RETAIL MARIJUANA BUSINESSES, AND CULTIVATION, TESTING AND MANUFACTURING OF MARIJUANA PRODUCTS UPDATES TO MARIJUANA REGULATIONS

Director Zuccaro stated that based on initial direction from City Council, staff has drafted two versions of an ordinance addressing updated medical and retail marijuana regulations for discussion and direction.

He reviewed current regulations:

- Licensing in Title 5 of the Louisville Municipal Code and Zoning Requirements in Title 17
- Medical Regulations adopted in 2011
- Retail Regulations adopted in 2013
- Limited size, number and location
- Buffer from certain uses
- Manufacturing and Testing allowed but not consistent
- Cultivation not allowed

City Council direction from previous meetings:

- Align with liquor store regulations
- Increase store size to 5,000 square feet
- Remove 4 store limit
- Decrease buffer from 1,320 to 500 ft. and only from primary school and higher
- Require 1,500 ft. between stores
- Align medical and retail testing and manufacturing regulations
- Allow manufacturing in Industrial District
- Provide Ordinance option for cultivation in Industrial District

Director Zuccaro reviewed the current buffer map and the map with proposed buffers which opens up more areas for medical and retail sales.

He reviewed the cultivation option in the industrial district which is mostly in the CTC and noted the draft contains performance standards for gas, vapors, odors, smoke, dust, heat, and glare. The ventilation requirement is no odors.

Director Zuccaro asked for discussion/direction on the following topics:

- Setting the buffer distance to 500 ft. and measuring from to K-12 schools only
- Removal of 4 store limit
- Require buffer of 1,500 ft. between stores
- Increase maximum store size to 5,000 sq. ft.
- Align medical and retail allowances for testing and manufacturing
- Allow manufacturing in Industrial District
- Allow cultivation in Industrial District

Mayor Pro Tem Lipton asked about an excise tax if cultivation is allowed. Director Zuccaro stated staff recommends considering an excise tax; this would require a vote of the people. Councilmember Maloney asked why we would do that. Director Zuccaro stated it would not be a recovery fee but more a revenue source for the City to consider.

Public Comments

Nick Broderick, 4730 Table Mesa Dr., Boulder, CO, representing 14er Boulder which is a medical and retail cannabis business, stated they support the allowing of testing, manufacturing, and cultivation. They would like the ability of the industry to continue growth. The company has 40 + employees who have full benefits and noted the industry does support the economy and add value to the community. They work hard to control odors and have reliable technology to control potential noxious odors. They would like to suggest some language for this for the ordinance and it should require redundancies.

Mayor Pro Tem Lipton asked if the excise tax and land uses are contingent on each other. Director Zuccaro stated they are not contingent. Cultivation would be a land use approval; an excise tax would be considered separately. Mayor Pro Tem Lipton would like to know what other communities are doing in the way of excise taxes.

Councilmember Maloney stated he was reticent to link the two together. The land use issue is a separate discussion. We don’t make land use decisions based on what if.

Cultivation:

Councilmember Stolzmann supports the cultivation and manufacturing in the Industrial district and felt the CTC opposition was not a compelling reason to not allow this.

Councilmember Keany stated he is supportive of the cultivation option. He agreed with Councilmember Stolzmann the owners association of the business park can do what they want regardless of this decision. He stated an excise tax may generate more tax, but the increase in use tax is also significant and may be sufficient and it shouldn't influence this decision.

Councilmember Leh stated he was not supportive of cultivation and manufacturing in the past, but after visiting a facility and seeing the quality of the facility he feels with the right regulations he can support it.

Councilmember Maloney agreed; allowing manufacturing and cultivation makes sense economically and odor issues can be addressed.

Councilmember Loo agreed. She would like more information on the excise tax and what other communities have done.

Mayor Muckle stated he could support cultivation but would like to see tough regulations on odor.

Buffer Distance

Mayor Muckle was not in favor of decreasing the buffer to 500 feet.

Councilmember Maloney supported the 500-foot buffer.

Councilmember Leh was not in favor of reducing the buffers. He likes the current rules on the distance and to preschools, etc. and has gotten the same response from his constituents.

Councilmember Stolzmann stated support for keeping the rules for liquor and marijuana similar. Making this change does not open up very many places for sales. It is arbitrary but this way they are similar to liquor stores. Councilmember Loo agreed.

Councilmember Keany stated he does not think this makes a huge difference and supported the change. He supported leaving the hours as they are currently.

Mayor Pro Tem Lipton supported the change but doesn't see the need to align it with liquor regulations. He doesn't see the need for the 1500 foot buffer between stores and would prefer a smaller buffer.

Members agreed to the removal of the four store limit.

Councilmember Leh stated he thinks it is a mistake as a policy matter to equate liquor stores and marijuana stores. They are not the same under the state constitution and other regulations. There are good reasons for not doing that. He thinks the community will not like the reductions in the buffers from schools and saw no need to decrease or increase the buffer between stores.

Councilmember Maloney stated he was looking at the liquor regulations as a guide for this discussion. He noted marijuana stores are very secured controlled operations and it is not easy access to the product. He agreed with the 500-foot buffer, the removal of 4 store limit, he felt the 1500 feet between stores was an arbitrary number and should be discussed and also felt the store size was arbitrary. He agreed with the other three discussion items.

Councilmember Loo supported decreasing the buffer, removing the 4 store limit, and keeping 1500 feet between stores. She supported the increase in store size and was in favor of the other three.

Councilmember Keany was hesitant about the 500 ft. buffer, agreed to removing the 4 store limit, he supported a fairly large buffer between stores, the increase in store size was okay, and he was fine with the others.

Members agreed to 500 foot buffer: 4 votes

Members agreed to eliminate the 4 store limit: 7 votes

Members agreed to 1500 feet between stores: 4 votes

Members agreed to the 5000 sf maximum store size; 7 votes

Members agreed to align medical and retail manufacturing and testing rules; 7 votes

Members agreed to manufacturing in Industrial zoned districts; 7 votes

Members agreed to cultivation in Industrial zoned districts; 6 votes

Councilmember Stolzmann would like to allow retail sales in downtown.

Mayor Muckle stated he is not interested in allowing it in downtown.

Councilmember Keany stated allowing it downtown could encourage retail and foot traffic downtown although he has concerns about how it changes the experience of downtown.

Councilmember Loo stated she supports the option for downtown. Councilmember Maloney agreed, perhaps limit to certain sections of downtown.

Mayor Muckle stated he could allow at Pine Street Plaza not on Front and Main Streets.

Councilmember Leh stated he does not support it downtown in general, but would be interested in what the public and business owners think on this.

Mayor Pro Tem Lipton stated he supports a smaller buffer between stores. He suggested 1000 feet. Regarding downtown, it is surrounded by residential so perhaps there is more conversation needed.

Members decided to finalize the buffer with the final ordinance.

LOUISVILLE REVITALIZATION COMMISSION ANNUAL BUDGET FOR FISCAL YEAR 2019

Director DeJong stated the Intergovernmental Agreement (IGA) with the Louisville Revitalization Commission (LRC) requires their annual budget be presented to Council for approval. He reviewed the proposed budget and gave a brief summary of notable line items within the 2019 LRC Budget noting the total estimated costs for 2019 = $1,868,722.

Steve Fisher, 860 West Centennial Dr., LRC chairperson, stated the commission supports this budget and are confident it works.

Public Comments – None.

Councilmember Stolzmann stated she is pleased with the LRC budget as presented. She feels there is opportunity for a better process between the Council and LRC. She would like to see more capital project coordination and aligning of priorities.

Councilmember Maloney agreed the two groups should work more closely together on this budget process and a better understanding of what the LRC wants and what the expectations are of Council. Mayor Muckle agreed; perhaps the Finance Committee could do an initial look to focus Council discussion.

While there has been a learning curve, I believe that MJ manufacturing extraction grow etc has made a positive impact on the industrial market and overall economy and many multi-million dollar entities with boards and sophisticated management are running these corporation.

According to the this recent article in Forbes "To put this in perspective, this industry growth is larger and faster than even the dot-com era. During that time, GDP grew at a blistering pace of 22%. Thirty percent is an astounding number especially when you consider that the industry is in early stages" https://www.forbes.com/sites/debraborchardt/2017/01/03/marijuana-sales-totaled-6-7-billion-in-2016/#25c2acb975e3.

Another report from Shupilov:

Industrial and commercial real estate opportunities related to grow-ops

The Canadian marijuana industry 85 companies with a combined market value of about $30 billion. The new pot industry is expected to put pressure on the industrial real estate market amid a booming economy. According to Cushman & Wakefield (a commercial real estate firm) the industrial vacancy rate at the end of 2017 was at its lowest since 2011 at 3.9% . **Rents for industrial spaces went up 15% in Vancouver and 7.3% in Toronto from 2016 to 2017.**

Vacant warehouses and factories have become valuable real estate opportunities for the grow-ops, pot shops and other initiatives within the pot industry, which has put created a huge demand for commercial operations. **States like Colorado and Washington are seeing premium prices for commercial buildings with the proper zoning.**

In Edminton, there are already some big players in the market. Aurora Cannabis is completing on an 800,000 square foot facility near the airport, and Canopy Growth recently did a deal for 160,000 square feet in south Edmonton.*See link for full article* https://news.shupilov.com/section/market/trends/how-will-marijuana-legalization-impact-the-real-estate-market-in-montreal/

Multiple states have approved both medical and recreational MJ and Canada recently legalized MJ. This product is also helping a large part of the population that have seizure disorders, cancer treatments and opioid addiction.

Having over 25 years of experience in this park, I would like the park to remain diverse which will keep the area healthy over the short and long term, and again believe that this use would be an excellent complement to the current approved uses in the business park.

Thanks you,

Andrew Freeman
The WW Reynolds Companies
Freeman Capital Management

City of Louisville
COLORADO • SINCE 1878

Planning Commission
Meeting Minutes
December 13th, 2018
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order – Chair Brauneis called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Commission Members Present:	Steve Brauneis, Chair David Hsu, Vice Chair Dietrich Hoefner Jeff Moline Keaton Howe Tom Rice Debra Williams
Commission Members Absent:	None.
Staff Members Present:	Rob Zuccaro, Dir of Planning & Building Safety Lisa Ritchie, Senior Planner Amelia Brackett, Planning Clerk

APPROVAL OF AGENDA

Moline moved and Williams seconded a motion to approve the December 13th, 2018 agenda. Motion passed unanimously by voice vote.

APPROVAL OF MINUTES

Moline moved and Williams seconded a motion to approve the October 11th, 2018 minutes. Motion passed unanimously by voice vote.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

NEW BUSINESS – PUBLIC HEARING ITEMS

LMC Amendment – Marijuana Regulations – Proposed amendments to Title 17 of the Louisville Municipal Code (LMC) regarding certain provisions related to retail and medical marijuana businesses (Resolution No. 17, Series 2018.)

- Applicant: City of Louisville
- Case Planner: Rob Zuccaro, Director of Planning and Building Safety

Commissioner Hsu disclosed that he has a client in his law practice who works in the marijuana business, but he felt he could still be objective.

Director Zuccaro stated that proper notice was made for the hearing and proceeded to present the proposed amendments. Two titles in the Louisville Municipal Code (LMC) deal with marijuana regulation – Licensing (Title 5) and Zoning (Title 17.) Current code restrictions include limitations on the size and location of retail and medical marijuana establishments, a limit of four businesses within city limits, geographic buffers around certain uses, and a ban on cultivation (manufacturing and testing is allowed.)

Staff had three discussions with City Council in 2018 on what to change in the Code. Council directed staff to explore an option to align marijuana regulations with current liquor store regulations. The proposal from Council is as follows:

- Eliminate 4-store limit.
- Add 1,500 feet spacing between stores.
- Align medical and retail regulations for testing and manufacturing and expand to Industrial District.
- Increase store size to 5,000.
- Decrease buffer from 1,320 to 500 feet and only from primary school and higher.
- Allow cultivation in Industrial District with odor and ventilation requirements.

Zuccaro responded to the question in Commissioner Hsu's email asking for the maximum number of stores under the proposed ordinance. Staff found that the max number would be about 12 stores.

Zuccaro explained that the biggest concern staff found when talking to other cities was odor regulation. The City would have to figure out how to enforce odor regulations. The proposal would allow cultivation in Industrial Districts and would include a ventilation requirement to ensure that there would be no odor from the building. Odor would also be address in the permit review and licensing processes.

Brauneis asked how federal regulation would impact city regulations.

Zuccaro replied that marijuana was not legal under federal law, so there were no applicable federal regulations. As a controlled substance, some cities like Denver have chosen to apply a 1,000-foot buffer to align with the Controlled Substances Act, but that was not legally mandated.

Rice asked why there were only two stores now, even when four were allowed. He also asked if staff thought there would be additional demand to open new stores under the new regulations.

Zuccaro replied that there were only two stores currently because of the buffers and because sometimes landlords do not rent to marijuana businesses. He added that staff gets inquiries often and the new proposals had increased interest in opening new stores.

Rice asked if the point of the proposal was to use the buffers as the limiting agents.

Zuccaro confirmed that the buffers would create the natural limits and they would also help prevent a commercial marijuana center with multiple stores in the same area.

Williams asked why marijuana businesses were banned downtown.

Zuccaro replied that cities like Lafayette had bans on some commercial districts based on the character of that area.

Williams asked why that rationale would not be applied to residential areas.

Zuccaro stated that the same rationale could be applied to residential areas. At the last Council discussion, there were different views about whether to allow marijuana businesses downtown and Council would appreciate that discussion on the record, as well. He also asked the Commission to comment on the proposed cultivation regulations.

Hsu asked where the 5,000-square foot limit for retail spaces came from.

Zuccaro replied that it came from talking to current stores about what would work for retail space needs while maintaining a limit.

Howe asked if there was a current supply/demand issue with the existing two stores.

Zuccaro stated that he did not know, but the inquiries to open up stores suggest that there is demand.

Howe asked if the community had complained that the current stores were too busy.

Zuccaro replied that they had not had those complaints from the community. He turned the commissioners' attention to the emails from the public that were in their packets and on the dais.

Hoefner asked if there could be two more retail stores in the current shopping area where the two stores are now.

Meredyth Muth, City Clerk, replied that there was a day care to the north of Lowe's that would preclude that shopping area from having another store. She added that the City was processing another license under the current regulations.

Hsu asked if that store would be excluded under the 1,500-foot buffer.

Muth confirmed that it would.

Hoefner asked if the buffer would apply to the distance between the two existing stores.

Zuccaro replied that the existing stores would be grandfathered in.

Williams asked what would happen if the proposal was voted down in the Planning Commission.

Zuccaro replied that the Commission's recommendation would go to Council and they would make the final decision.

Moline asked where the impetus for the changes in the ordinances came from.

Zuccaro replied that from the changes to the sales side it was a desire to treat marijuana stores similar to liquor stores. On the cultivation side, it was about business development.

Brauneis noted that he thought the state legalization process involved a discussion about treating marijuana like liquor.

Zuccaro added that the CTC (in an Industrial District) was not in favor of the cultivation in their area and it may not be allowed due to private regulation under the CDC.

Moline asked if the licensing authority was the same for liquor as for marijuana.

Muth replied that it was the same licensing board and the process for getting a marijuana license was similar to getting a liquor license.

Williams asked if the City would have authority to deny any of the allowed marijuana stores.

Muth replied that if they met zoning and licensing requirements, then no.

Moline asked how the City would ensure compliance with a cultivation business that was a use-by-right in an Industrial District.

Zuccaro responded that the business would still need to get a tenant finish building permit and also a license. The licensing stage would be when staff would verify compliance with things like the ventilation system. Staff had also added a requirement to provide an industrial hygienist report during the licensing process.

Howe asked about the process to report odors.

Zuccaro replied that a code enforcement officer would go out as soon as possible to verify the odor. Staff from other cities said that it was a difficult thing to enforce, because odors vary by the time of day and so complaints without verification sometimes happen. The Code amendment included a reporting requirement, but staff and Council had also discussed additional requirements.

Howe asked how the filtering systems worked and if the ordinance would specify the filtration specs.

Zuccaro stated that the Code would not mandate specific filtration systems, but it would be up to the facility to prove that their filtration system met the standards in the Code.

Howe asked what the typical exhaust was comprised of and if it could be negated to zero.

Zuccaro stated that the standard would be zero odor at the premises, meaning at the building. They would not be measuring gas, just odor.

Hsu noted that the Code in 5.11.222 did not specifically mention having odor at the premises. He pointed out that the Code language was squishy. He read the following excerpt to make his point, questioning the uses of words like “reasonable” and “normal”:

> “No retail marijuana establishment shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable use and enjoyment of another’s property…whether or not a marijuana emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity able to detect the odor of marijuana outside the marijuana establishment.”

Zuccaro replied that staff was concerned about the ability to enforce odor control as well. They reached this draft based on conversations with other cities that have been dealing with cultivation odor regulation for years. They felt it worked reasonably well as long as the City invested the resources to enforce it.

Williams asked why the Code wouldn’t have marijuana and liquor regulated in the exact same way with the same Code.

Zuccaro stated that that would be one way to do it if you really considered them the same.

Hsu noted that regulating them in the exact same way might run afoul of state liquor laws.

Howe asked if the federal law allowed the sale of marijuana.

Zuccaro replied that no, federal law did not allow it, which created general uncertainty and issues with banking.

Brauneis requested public comment.

Tom Tennessen, 5700 Dudley Street in Arvada, stated that he had been a resident of Louisville for 16 years and had served on the liquor board. He observed that the buffer laws prevented more than two stores in city limits, especially the daycare buffer restriction. As a previous member of the liquor board he noted more problems with the liquor licenses than the marijuana ones. He then addressed the cultivation issue, stating that the City of Boulder has 50-some licenses, yet some of the licensees have the same owners in multiple facilities. If you don’t have regulations in town, market forces would continue to change as they had since the original laws were written. He noted that cultivation facilities were much more regulated with cameras and tags and other forms

of control. Nothing else in town had that much oversight. Cultivation also requires large amounts of capital. He asked the Commission to look at the constraints that may be imposed on size and consider the limitations those might set on any business that wanted to come to Louisville.

Nick Broderick, 5515 Racquet Lane in Boulder, founder of 14er Holistics, a vertically integrated cannabis business that included cultivation and retail operations in Boulder. He had education and experience in environmental engineering and air pollution control technology. He stated that the popular filters now were primarily activated carbon. At first in 2009 with few regulations, a lot of people tried to open startups in their basements. With added regulations, a number of businesses folded. Now, the motto in the business is that they were in the business of compliance and happened to grow cannabis. In Boulder when there were not a lot restrictions, a lot of small startup companies came in and a number of them were not upstanding business owners, which caused a strain on the enforcement staff. He recommended no size restrictions since the market pressures were severe and caused consolidation in businesses as marijuana became less expensive. He recommended allowing market forces to push the best cultivators to the top. In the City of Boulder there were annual inspections from the City and the state with high pressure to comply. He stated that for odor compliance it came down to the community using their senses. His company has never had an odor complaint in the nine years they have been in operation.

Cyndi Thomas, 1245 Grant Avenue in Louisville, a partner at the largest property owner in the CTC, President of the CTC Owners' Association, and a frequenter of CTC businesses. She noted that there were children-focused businesses within the CTC and stated that there was a tenant base that was not coherent with the cultivation of marijuana. For example, one tenant that did government work expressed concern that it would be difficult to keep their government contracts with cultivation in the park. Children-focused businesses were also concerned about the odor. Thomas stated that CTC is a covenant-controlled business parks and she was not aware of other such parks that allow cultivation. She added that the CTC Owners' Association had solicited a legal review, which found that cultivation would not be compliant with their covenant. Finally, she stated that while the technology was getting better to mitigate the smells, she was worried that the odor concerns would land with the CTC if the City did not have the resources to do odor enforcement.

Teresa Saint-Peter, 1235 East 12th Avenue Apartment 21 in Denver, represents the Green Solution, one of the businesses that had recently inquired about applying for license from the City. She responded to the concerns of odor enforcement, suggesting that tax revenue generated from the marijuana businesses could go to odor enforcement. She stated that Green Solution was a family-owned business that offered good jobs and the owners would be happy to give the commissioners a tour of their facilities.

Eric Fowles 625 Fairfield Lane in Louisville, owner of Voltage Advertising in town, stated that Council needed to be transparent about why they wanted to increase these regulations. As a father of six and a brand expert, he did not think marijuana was the brand that they wanted for the City. He added that it was an issue for high schoolers and that making marijuana more available was not a good idea. As a business owner

the regulations could make him question further investment in the town. He recommended that the community should be more involved in this discussion.

Rice moved to enter the recent public comment emails into the record. Howe seconded. Voice vote. All in favor.

Brauneis asked for commissioner comments and deliberation.

Hoefner asked for clarification on the CTC allowances regarding the CTC covenant.

Cyndi Thomas replied that the CTC had a legal review done as their covenants did not specifically address the cultivation of marijuana. The covenant did cover illegal activities and nuisances and the board and the legal review concluded that cultivation did not adhere to the CTC covenants based on those insights. The issue was who would be able to enforce the CTC covenant, since it would be difficult for the CTC to enforce their own restrictions. She gave the example that the CTC did not allow parking on the street in the CTC, but the City did, so the City did not enforce the covenant regulations on parking. Additionally, there were issues for businesses with debt and equity since marijuana was still illegal under federal law.

Brauneis asked staff if there were any odor regulations for automobile paint spray booths.

Zuccaro replied that there were probably building code requirements and nuisance and performance standards for general types of nuisances like spray booths in industrial areas.

Broderick added that there was a classification of hazardous emissions under the EPA, which included regulation of spray booths, lead acid manufacturing, and others, for the emission of hazardous air pollutants. The technologies used to be in compliance with those regulations could be used by marijuana businesses.

Moline asked staff about the 1,500-feet spacing between stores.

Zuccaro replied that it was the buffer from schools and other uses. It was not a spacing based on liquor laws.

Muth responded that the current rule was that liquor stores had to be 1,500 feet apart by state law.

Moline asked if the 1,500 feet suggestion from Council was to try to align the marijuana and liquor laws.

Muth confirmed.

Hsu addressed cultivation and odor based on his visits to a cultivation facility and a retail facility. At the cultivation facility, he did not notice any smells outside even though there was a strong pot smell inside the building. He had not noticed smells inside or outside of retail stores. He added that in the Council minutes they had a breakdown of

votes for each topic and it might be good to go through each topic and do a straw poll of some sort.

Williams stated that the buffer from residential should be added to the topic list.

Moline asked Commissioner Williams about her concern about the residential buffer. He noted that there were marijuana smells currently in residential areas from people using and growing in their homes.

Williams replied that the proximity of stores to residential zones was a problem for people who bought their houses in Louisville and did not expect to be next to a marijuana business. She suggested considering a buffer from residential zones. She added that if they were banning the sale of marijuana downtown due to character of the area, they should apply the same standard to residential areas.

Brauneis asked if there was a residential buffer for liquor stores.

Zuccaro replied that there was not.

Brauneis asked if there was an increase in police issues due to the two marijuana stores.

Muth replied that they had not had any problems with the two present stores. She noted that there was a small bump in enforcement issues after marijuana was legalized. She added that the liquor issues were usually in restaurants and in general they stayed at a consistent level.

Hoefner stated that it seemed inappropriate to decrease the buffer for K-12 and the other uses on the list and a 1,000 feet should be a minimum.

Brauneis asked what Commissioner Hoefner thought the buffer achieved.

Hoefner replied that it was important to separate kids and addictive substances.

Hsu replied that when his daughter asked him what marijuana was after seeing a store, he explained it to her. He did not think addiction problems existed due to proximity in terms of feet. He agreed with Commissioner Hoefner that there was an inconsistency in the way Council was applying the buffers and bans. It seemed they were protecting downtown more than schools. He thought that where they were to have a buffer, it should be increased to 1000 feet to match the federal Controlled Substances Act. He was not opposed to sales downtown. He added that paraphernalia stores were not regulated. He also noted that the Planning Commission was not an elected body, the Council was, and the County voted to approve marijuana with a big majority.

Brauneis noted that there were PSA announcements on the radio to talk to kids about marijuana use and he thought that was a healthy way to deal with the issue.

Williams agreed that the County voted for allowing businesses by 66%, but she wasn't sure that that vote reflected a desire to have 11 stores in each town. She did not want to decide on that issue and did not think the Council should, either.

Hoefner recalled the discussion around state legalization as being about legalizing marijuana subject to local regulation.

Rice added that the relevant statues provide the opt-out provisions to allow communities to opt out even 100% if they want. His personal view was that the City should opt-out 100%, but he was aware that that decision had already been made. From a planning perspective, he did not think more marijuana stores everywhere in the city would be good for the character for the community. He could not support any changes to regulations that would increase the number of stores. He added that the Colorado Supreme Court had spoken to the issue of lawful activity of marijuana, which could play into the CTC covenant issue, to say that a company could fire an employee for marijuana use since it was legally prohibited.

Howe stated that his priority was to uphold the small-town ideals of the community, which they were asked to address in their commissioner applications. He did not think that the proposed ordinance corresponded to valuing residential spaces and he wondered how the spread of marijuana would impact current businesses, as well. One of the articles in the staff packet showed suggestive evidence that marijuana businesses increased tax revenue, which he agreed would be a benefit. However, the article also noted an increase in public health incidents over 10 years, such as hospital visits related to marijuana. He summarized that he only one benefit, increased revenue, and that there were many disadvantages.

Brauneis asked if staying at the current regulations would impact the findings of that study.

Hsu noted that alcohol likely had more health hazards than marijuana. He agreed that if you made something legal under state law more people would use it, but the data for Louisville showed that the two existing stores had not affected anything in terms of property value or criminal complaints.

Howe replied that he thought the question was whether these changes would affect the way people relate to their community. For example, would people want to continue using kid-centered businesses in Louisville with an increase in marijuana stores?

Hoefner stated that the planning perspective was about where appropriate uses existed in the town. He agreed with Commissioner Rice that the fact that it would be used at all was already decided, but the question now was where it would be used.

Zuccaro stated that Council did rely on the Planning Commission for input. He recommended thinking about the impacts on the community, as well. It was not governed by particular criteria. The Commission could draw on the Comprehensive Plan and personal experience. He asked the Commission to make a motion for any conditions of changes that they could recommend as a body. The Commission could also request additional information of staff.

Williams suggested everyone's comments on the record on each issue to the Council could have the Commission's reasoning.

The commissioners and staff discussed how to go about making their recommendations to Council, concluding that they would vote on a motion.

Brauneis then asked if they were allowed to put a cap on the number of stores under state law.

Zuccaro replied that it was a local issue and the City could put a limit on stores if they wanted. He offered to get a City Attorney opinion for the official legal word.

Brauneis returned the discussion toward the list of discussion/direction topics.

Downtown ban
Williams stated that if they were banning sales downtown, then they should ban them from residential areas.

Rice opposed sales downtown.

Hsu would vote in favor of sales downtown, in particular the commercial area east of the railroad tracks, Pine Street Plaza.

Hoefner, Moline, and Howe opposed sales downtown.

Brauneis stated that when this initially came up five or so years ago that there would be a paradigm shift with talking to kids about marijuana such that marijuana sales would be acceptable downtown. He would be more concerned by a strip club or a pawn shop in that area. He added that there really had not been an impact from the two existing stores.

Williams added to her earlier comments that she agreed with a ban downtown and in addition supported a 500-feet buffer from residential areas as part of maintaining the character of the town.

Cultivation facilities
Rice opposed allowing cultivation.

Hoefner thought that an industrial zone was as appropriate a place as any for cultivation.

Williams agreed with Commissioner Hoefner as long as business parks and HOAs had the right to ban them from their facilities.

Hsu was in favor of allowing cultivation in industrial zones. He was confident that the odor remediation would work and cultivation facilities usually looked like big boxes and would not be a visual problem for being near kid-related activities. He added that the cultivation facilities were sophisticated and hi-tech.

Moline agreed with Commissioner Hsu and stated that legitimized allowance in an industrial zoning district would help decrease the number of grows in residential areas.

Howe understood that it was an industrial district, but he thought that there was adequate demand for space in the CTC already.

Brauneis noted that he did not think it was up to the Planning Commission to be concerned with supply and demand unless they were creating an industrial district. In this case, it was a business activity that occurred inside of a building. He thought that odor regulations would be enforceable.

Hsu stated that he understood Commissioner Howe's point that if there was a supply and demand issue at the CTC they might want to encourage growth in that area by approving this use.

Maximum facility size
Zuccaro noted that the City of Boulder used existing zoning limits to govern the size of cultivation facilities. The proposal did not have any size limits for cultivation.

Hsu thought there should be a maximum number of some sort.

Moline agreed with Commissioner Hsu and suggested that they could revisit the cap number in the future.

Brauneis asked if there was another industry that had space limits.

Zuccaro replied that there were not space limits for other industries, even though architectural regulations might not allow certain types of structures.

Williams asked if there were size limits on greenhouses.

Zuccaro replied that architectural controls in the CTC might not allow certain structures, but he was not aware of any limits on greenhouses in particular.

Brauneis asked why they would want to curb the success of a business by limiting its size.

Hoefner stated that unless they could identify a reason for the size limit, any number felt arbitrary. He did not see the difference between having one large facility versus two smaller facilities and that market forces could decide.

Rice added that they had approved industrial facilities that were over 100,000 square feet and did not think there should be a limit in this situation, either.

Hsu stated that he was convinced by his fellow commissioners that there should not be a size cap on cultivation facilities.

Align medical and retail allowances for testing and manufacturing & expansion into industrial district

Moline asked if alignment helped enforcement.

Zuccaro replied that there did not seem to be a difference between medical and recreational testing and manufacturing.

Williams asked what kind of facility conducted testing and manufacturing.

Muth stated that there were different licenses. You cannot test and manufacture in a retail store by state law. Cultivation and testing were different licenses as well and you could not do them both in the same facility. Muth added that there were specific regulations about waste for each type of license.

Williams asked if the waste was considered hazardous.

Muth replied that it was not but they did not want anyone going to a trash facility and recognizing the waste as marijuana.

Hsu added that when he had visited a marijuana testing facility it looked like a chemical lab and had a lot of tools for compliance and safety.

Hoefner stated that he would not support manufacturing as a use-by-right in a commercial zone and suggested that it could be allowed there through an SRU, but he would approve it as a use-by-right in an industrial district for testing and manufacturing, which was a change from the proposal.

Moline asked for Commissioner Hoefner's rationale.

Hoefner replied that manufacturing suggested a lot of different things and some of those things were a natural fit for a business zone, but other larger and more dangerous operations should have an additional layer of review.

Williams added that an SRU would also create a public process.

Hsu disagreed and did not think that the Planning Commission could provide evaluations of safety in industrial areas in an SRU process.

Hoefner replied that the Planning Commission could evaluate traffic, nuisances, and other land use issues.

Brauneis pointed out that all those issues would be covered by the Code.

Hoefner agreed, but thought that it was important to go through a public process in this case.

Brauneis asked if there were many situations for a certain category that needed SRUs.

Zuccaro replied that there were numerous SRU categories within zones. There were a lot of parallels in business and office zones where certain uses needed to go through the SRU process. For example, manufacturing might need a lot of delivery trucks that could be evaluated in the SRU process.

Howe did not think he was qualified to answer the testing and manufacturing safety issues.

Brauneis asked what Howe thought of the SRU proposal.

Howe replied that he would have to know more about the testing and manufacturing and how close it was to other buildings.

Muth stated that a lot of definitions were regulated by what the state license allowed. The state looked at these issues under the Marijuana Enforcement Division, which would review Life Safety Plans, et cetera, to get the license.

Zuccaro added that size and impact could vary greatly from one manufacturing facility to another. He did not think there were any in the city currently.

Hsu stated that he was in favor of Hoefner's recommendation to have an SRU and if Council had more information they could overrule that recommendation.

Zuccaro reminded the Commission that it could ask for a continuance and request additional information.

5,000 square feet store size
Moline asked if the 5,000 number or any number felt arbitrary, as well. He liked that argument the last time and thought it applied here.

Rice did not see a reason to change the square footage.

Williams stated that it depended. If there were going to be 11 businesses in the city, for example, the situation could be different.

Hsu replied that without the square footage limit there could be one big-box marijuana store to saturate the market.

Williams noted that there were about 20-30 shops you could get to from Louisville with relative ease currently. She added that she did not think the square footage limit would affect the total number of shops in the city. She did not see any reason to change what already existed and since the number seemed arbitrary they might as well keep it.

Moline replied that it all seemed arbitrary and he suggested letting existing zoning laws dictate size.

Hsu, Brauneis, and Hoefner agreed with Commissioner Moline. Hoefner added that he did not think the square footage affected the issues the Commission was considering.

Buffer zones – distance & use
Williams asked where the current number of 1,320 feet came from.

Brauneis stated that they used the buffer as a control for the total number of stores, and 1,320 feet was a quarter mile. They calculated the total number of possible stores through the buffer distance.

Williams stated that they should keep the buffer the same and that the buffer should include all kinds of children's facilities.

Rice stated that the current buffer had worked fine until this time. He added that the discussion on the arbitrary number was more about reasonable numbers of total stores than the distance itself. He did not agree with the idea that all limits were arbitrary.

Hoefner contrasted this limit, which had a specific goal, with the one on the square footage, where it was difficult to connect that number to stated policy goals. Rice agreed.

Howe thought the buffers should be kept in place. A smaller buffer would compromise business and residential areas.

Brauneis asked if all the other changes were made but the buffer was kept in place, how many stores could there be.

Zuccaro replied that there were two issues: what you're buffering from and the distance of the buffer.

Williams wanted to keep a buffer from all the uses the City had before and that the buffer of 1,320 feet should remain the same. Hoefner and Rice agreed.

Zuccaro noted that making that decision on this issue would significantly limit the number of stores in the city.

Howe stated that this issue went back to the supply and demand question. If there was more demand they would need to respond to that issue, but it seemed like that was not the case. Maybe on a revenue basis the increase might be justified, but from a planning perspective that was not their purview.

Brauneis reminded the Commission that they had empty retail space that had been empty for a long time, yet they were hearing about people who wanted to move their businesses. He noted that keeping the buffers and the distance the same would basically keep the situation as is.

Hoefner disagreed, citing the size limit of the facilities and other individual policy decisions that would change despite the limit staying the same.

Moline asked if this distance was the same as for liquor stores.

Muth replied that the liquor license required 500 feet from schools and 1500 feet between stores. State law says that municipalities can go lower than 500 feet, which was designed for small towns.

Moline asked if the 500 limit only applied to K-12.

Muth confirmed.

Moline stated that he was prepared to go with the liquor and marijuana regulations on this issue, as well.

Hsu stated that he would prefer to have 1000 feet to match the controlled substances act, but he did not have strong feelings on the distance. He did think there should be buffers for specific uses, but limiting it to the K-12 since the longer list just had too many uses on it.

Moline added that part of his reasoning came from the packet and the testimony from the public that the existing stores have not caused additional issues and that the liquor licenses were more problematic. That information is why he felt that the alignment was appropriate.

Williams stated that she thought that even if the marijuana shops had the same number and severity of liquor trouble that would not weigh into her thoughts. She saw the issue as one of the kind of character you were trying to build in the town.

Moline replied that he did not see any differences between liquor and marijuana stores.

Rice noted that maybe the reason they had so few problems was because there were only a few stores.

Brauneis did not think that regulating marijuana like liquor threatened the small-town character of the city.

Howe countered Brauneis' point, saying that a marijuana facility might impact a small-town business owner or a medical facility.

Hsu noted that business owners don't get to choose their neighbors just like residents don't get to pick their neighbors. He added that a pizza shop would love to have marijuana next to them.

Howe thought that as a Planning Commission they were meant to make those kinds of decisions.

Rice noted that the state law specifically allowed cities to choose if they wanted marijuana stores in their municipality.

Hsu replied that he did not see the evidence that marijuana stores would hurt their neighbors. He was not trying to say that the City did not have the authority to regulate.

Brauneis noted that this discussion topic was different because the commissioners who wanted to keep the situation as-is would want to keep this the same and those who did not would not, so it was different from the other issues.

Williams stated that the sky was not falling with the 2 stores. But 11 stores in a city with a population of 20,000 would be different than 2.

Spacing between stores
Hoefner stated that 1500 feet was unnecessary since you could only have so many successful stores of one kind in a single shopping center. 500 feet might be more appropriate. He thought that the larger number should be between the stores and the buffer uses, not between marijuana stores. He did not think the spacing between stores should be greater than between stores and child-oriented facilities.

Rice asked if the 1500 came from the liquor store spacing.

Hoefner stated that he thought the 1500 feet distance was to protect existing mom and pop shops near a supermarket that was about to put them out of business.

Muth confirmed.

Howe did not support any buffer between stores, suggesting that it could be left up to the market.

Rice stated that he did not think there was a reason to have a buffer between stores except as an effort to limit the total number of stores, especially if you were going to decrease the buffers between other facility uses.

Williams noted that the map reflected today, and in 10 or 20 years there could be new development.

Zuccaro replied that yes, all the areas on the map could develop with retail to support stores.

Brauneis liked using the space between stores as a natural cap to the maximum number of stores in the city.

Hsu supported the idea of spacing between stores to avoid a marijuana district, which he did not think was in the character of Louisville.

Moline asked Howe if his concern over the effects on businesses would be a concern if there were more than one marijuana business nearby.

Howe replied that if there were a playground that have 4 nearby, that would be a problem. He hoped that the market would limit the success of multiple stores near each other.

Williams stated that the spacing between stores only made sense if you were trying to limit the total number of stores in the town.

Removal of a 4-store limit
Rice was in favor of the 4-store limit, since enough was enough.

Brauneis asked for clarification on if there was actually a 4-store limit in the current Code.

Zuccaro stated that there was a 4-store limit in the Code.

Howe stated that all these topics were part of the same idea. He thought the Commission was trying to create an idea of what the Council would evaluate and that all the issues were connected to that idea. He requested that the Council evaluate the impact on residential areas and other uses in the city.

Williams agreed with Commissioner Howe. She thought that the Planning Commission had given the Council an idea of what they wanted the city to look like. It seemed like the Commission wanted regulation and did not want a Wild West of marijuana. She added that she would only limit the total number of stores if there were no other buffers in place.

Hoefner suggested an incremental approach by doubling the total number of stores to 8 and seeing what happens. That would avoid the situation of uncontrolled marijuana districts.

Hsu suggested that there was a majority for cultivation, on square footage, and sales downtown.

5-minute recess.

Motion
Hsu stated that the odor emission should be strengthened because it is too squishy as it is and the ordinance should reflect the desire to have zero odor emissions in the ordinance.

Williams made a motion to keep the buffer at the 1,320 feet from schools, daycares, parks, pools, and the rest of the current uses and keep the rest of the proposal as written with the amendment that instead of the 4-store limit the City put in the 8-store limit to prevent a marijuana district.

Hoefner amended the motion to eliminate the 1,500 foot spacing between stores and to require an SRU for manufacturing in a CB zone.

Hoefner seconded the motion.

Howe asked for clarification about a buffer zone from residential.

Williams replied that there was not an addition because they were keeping the full list of the facilities and they would therefore not need the residential buffer.

Hsu pointed out that you could have a marijuana district of 8 stores under their current motion.

Brauneis asked for additional discussion and Williams asked if the Commission's changes were in writing.

Zuccaro replied that they were in writing through the minutes and he summarized that there were four changes to the proposal as drafted:

1. 8 store limit
2. Remove 1500 foot spacing
3. Maintain current buffer of 1320 with the same list of buffers
4. SRU in CB zone.

Hsu stated that he was in favor with the 8-store limit and the SRU. He did not think there should be buffers for the whole list of uses and he did not think the space between the stores should be removed. He approved of the other proposed changes as drafted by the Council.

Rice stated that he thought a lot of the proposed amendments were creative and good, but he was going to stick to his principles and vote no on the motion.

Howe asked if this was limiting to development.

Hoefner clarified that he thought the way liquor stores worked you could move one of the uses near the liquor store but could not move a liquor store near an existing restricted use.

Rice added that the Goddard School, for example, moved within the buffer zone of a liquor store.

Muth confirmed.

Moline disagreed with the buffer zone on the whole list of uses in the motion, but he would vote for it overall.

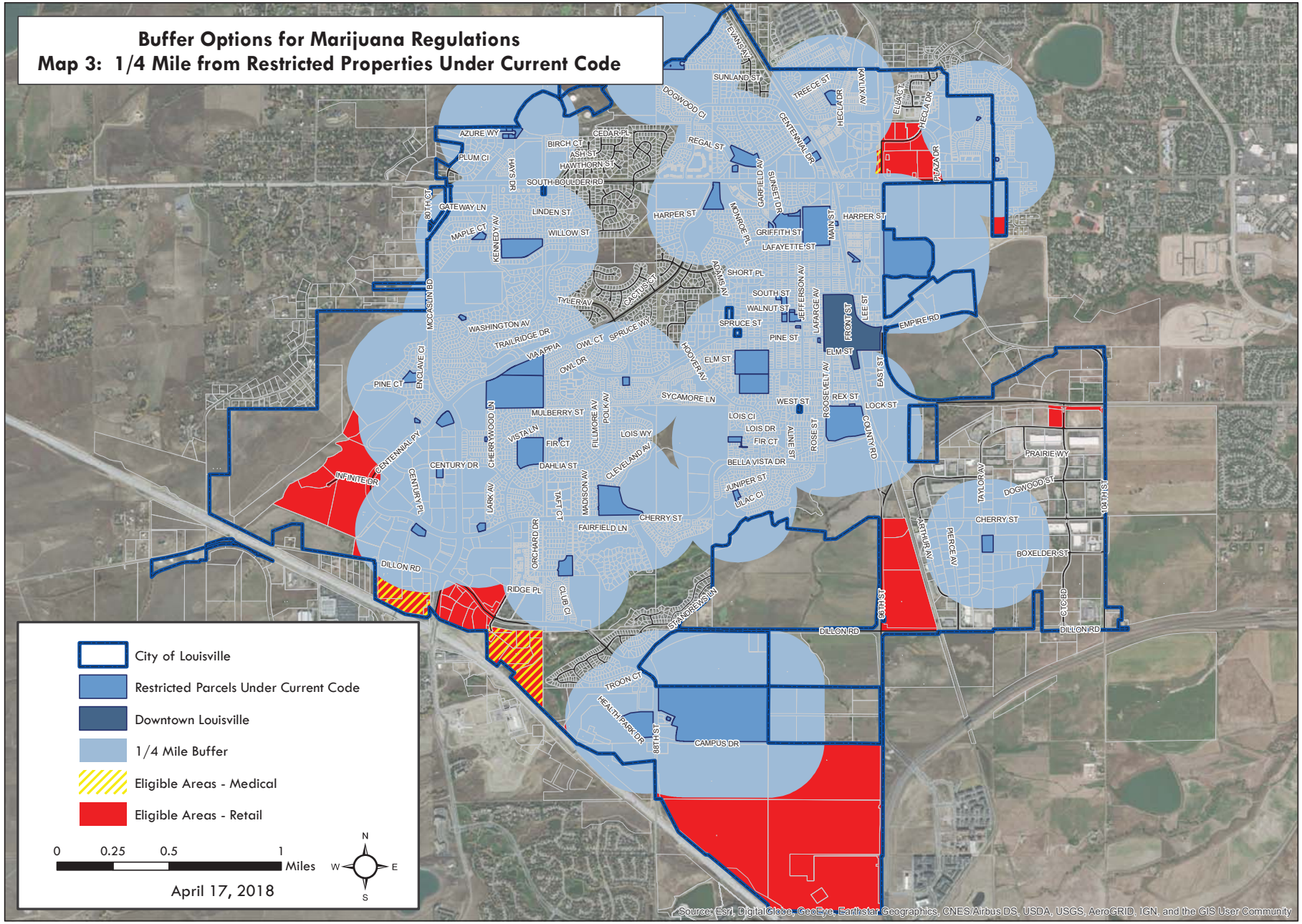
Brauneis agreed with Moline that the 1,320-foot buffer would be fine with K-12 as the only use restriction. The Goddard School is proof positive that they were comfortable being within the liquor store buffer.

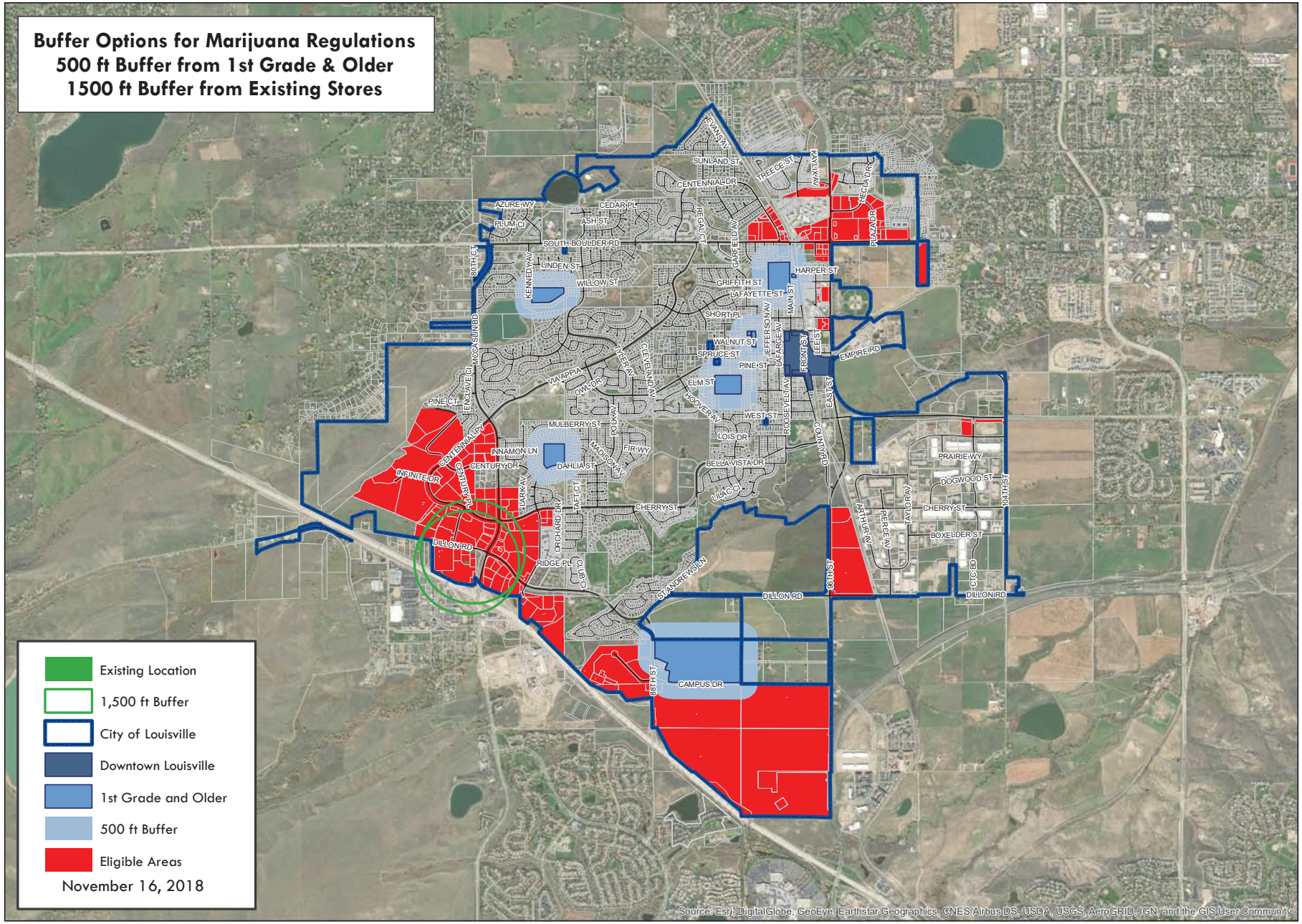
Roll call vote on Resolution No. 17, Series 2018 with amendment. 6-1 in favor. Rice voted nay.

LMC Amendment – Residential Estate (RE) Zone District Lot Coverage Standards – A request to amend the RE zone district maximum lot coverage standard. (Resolution No. 18, Series 2018).

- Applicant: City of Louisville
- Case Manager: Lisa Ritchie, Senior Planner

Public notice met Code requirements.


Buffer Options for Marijuana Regulations
Map 3: 1/4 Mile from Restricted Properties Under Current Code
City of Louisville
Restricted Parcels Under Current Code
Downtown Louisville
1/4 Mile Buffer
Eligible Areas - Medical
Eligible Areas - Retail
0
0.25
0.5
1
Miles
April 17, 2018
N
S
E
W
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


Buffer Options for Marijuana Regulations
500 ft Buffer from 1st Grade & Older
1500 ft Buffer from Existing Stores
Existing Location
1,500 ft Buffer
City of Louisville
Downtown Louisville
1st Grade and Older
500 ft Buffer
Eligible Areas
November 16, 2018
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

MAP REQUIRED
Attach a street map that is drawn to scale. Indicate the proposed premise, at the center of a circle with a labled 1,000-foot radius, such that the setback restrictions below may be verified by the Planning and Building Department.

STAFF USE ONLY
According to the map provided by the applicant, the proposed premise complies with the following setback restrictions:

- ☐ 500 feet from a commercially licensed day care facility
- ☐ 500 feet from an existing licensed medical marijuana center or retail marijuana store
- ☐ 1,000 feet from a public or private school
- ☐ 1,000 feet from a hospital
- ☐ 500 feet from Public Road, north of South Boulder Road
- ☐ 500 feet from a residential subdivision, residentially zoned property or property with residential as the principal use
- ☐ 500 feet from East Simpson Street east of Public Road to 500-501 East Simpson Street
- ☐ 500 feet from 120th and 119th Streets north of Emma Street to US Hwy 7
- ☐ 800 feet from US Hwy 287 and US Hwy 7

Zoning District: _____ Use Category: _____

Previous Reviews: _____

- ☐ Approved
- ☐ Denied

Reason for denial:
_____
_____
_____

Further Discretionary Review Required: _____

Application reviewed by: _____ Date: _____

COLORADO TECHNOLOGY CENTER OWNERS ASSOCIATION, INC.
8390 E Crescent Parkway, Suite 300, Greenwood Village, CO 80111, 303.779.5710

October 4, 2018

City of Louisville Planning Commission
749 Main Street
Louisville, CO 80027

Sent to: PlanningCommission@Louisvilleco.gov

Dear Planning Commission:
The Colorado Tech Center Owners Association (CTCOA) believes Louisville has been thriving under the existing Municipal Code and would prefer that no changes be made to the Code related to expanded medical and retail marijuana uses.

That said, CTCOA opposes sections of the proposed ordinances that would expand medical and retail marijuana uses and we encourage you to exclude these sections from allowed uses in the Industrial and Planned Community (PC) zones and from any recommendation you provide to Louisville's City Council.

CTCOA represents approximately 140 owners that have invested in making Louisville one of the best communities in the United States. Almost 500 acres in size, the Colorado Tech Center is zoned Industrial (~70%) and Planned Community (~30%). Based on land mass, areas zoned Industrial are most impacted by the proposed ordinance, as evidenced by the map on page 2.

CTCOA is governed by a Declaration of Protective Covenants and the CTCOA Board of Directors believes that the expanded uses considered by Louisville are not allowed under the CTCOA Protective Covenants. As such any application for a marijuana-related facility, though permitted by the City, would be likely be denied by the CTCOA. Specifically, Section 2.1 of the Covenants states:

> *No noxious, illegal, dangerous or offensive trade, services or activities shall be conducted on any Building Site nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owners, tenants or occupants of other Building Sites within the property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste smoke or noise.*

Section 2.2 of the Protective Covenants continues with:

> *Building Sites shall be utilized only for engineering, research facilities, laboratories, light industrial uses, offices, distribution and warehousing, and other such uses allowed under local zoning ordinances which Declarant, or its designee, shall permit in its sole discretion.*

As you are likely aware, the cultivation, sale or use of marijuana remains illegal under federal law and CTCOA is strongly opposed to permitting cultivation, either as an "Optional Premises Cultivation Operation" or as a "Retail Marijuana Cultivation Facility" as an allowed use in the City's only Industrial Zoned district. Cultivation is not and will not be an allowed use in CTCOA's Protective Covenants and it is nonsensical for Louisville to allow a use in an Industrial Zone which is not permitted by the Protective Covenants of one of the few areas with industrial zoning.

CTCOA has general concerns about Marijuana Infused Product Manufacturing not aligning with the Protective Covenants or the interests of CTC's owners and tenants, and is also concerned about expanding Marijuana Infused Product Manufacturing from the areas zoned CB to Industrial Zones, due to the potential of creating dramatically larger manufacturing facilities and the associated nuisances. CTCOA does not believe

that Sections 5.10.230 and 5.11.220 B. of the current Municipal Code and proposed ordinances, which place limits on the emission of smoke, odors, debris, dust fluids and other substances from exiting a medical or retail marijuana business, are sufficient to address the myriad of issues that are likely to arise with larger scale marijuana product manufacturing. CTCOA is concerned that strong and diverse management strategies will be necessary, but not available, to address this new, expanded use and encourages Louisville to address how and by whom these businesses will be regulated and publicly share the plans prior to approving this change in use.

CTCOA is also puzzled by the proposed ordinances silence on these expanded uses in PC zoned districts. Approximately 30% of CTC is zoned PC. CTCOA opposes allowing marijuana uses in the PC zone.

Over the past years CTC has grown tremendously, is an economic and jobs driver, and is home to technologically advanced and innovative businesses. CTCOA is concerned that any marijuana-related business may interfere with other current owners, and especially those that offer activities for children, such as the Evo Rock Climbing Gym, Mountain Kids Gymnastics and Apex Movement, as well as the family focused Community Food Shares.

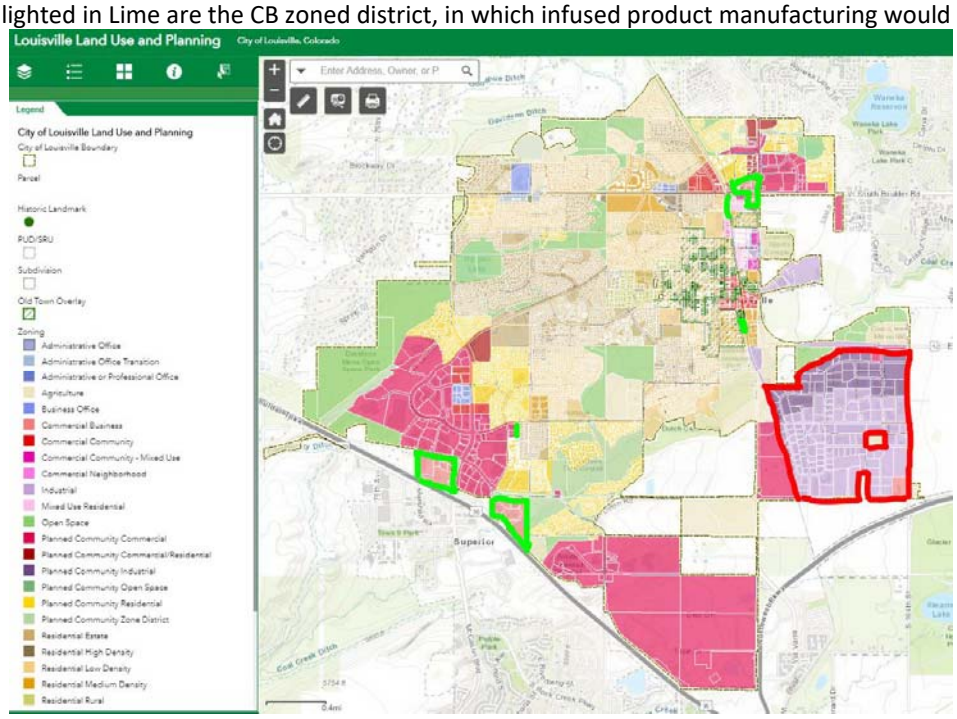
The CTCOA and the City of Louisville have built a good relationship and often coordinate land use approval processes, working together to improve, diversify and grow the strong economic base that is evident in CTC and throughout the City. The CTCOA appreciates your service to Louisville and encourages you to address the issues we have raised, keeping in mind that even if the proposed uses are expanded, they are not likely to be permitted within the Colorado Tech Center.

Sincerely,

Cyndi Thomas

Cyndi Thomas, CTCOA President

Area highlighted in Red is CTC, with ~70% zoned Industrial (the lighter shade of purple)
Areas highlighted in Lime are the CB zoned district, in which infused product manufacturing would be allowed



Meredyth Muth

From: Michael Kranzdorf <mike@amterre.com>
Sent: Tuesday, October 9, 2018 10:10 AM
To: Rob Zuccaro; Planning Commission; City Council
Subject: Proposed Updates to the City's Regulations for Medical and Retail Marijuana Businesses

Hello all,

I am writing in favor of Planning Commission item LMCA-0165-2018, Proposed Updates to the City's Regulations for Medical and Retail Marijuana Businesses. It's a reasonable update given the uncontentious nature of the existing facilities in the McCaslin area. I would propose that the area of downtown east of the railroad tracks comprising the Pine Street Plaza PUD and neighboring properties also be included in the allowed areas. These properties are much more similar to the Highway 42 facing DeLo and Christopher Plaza retail sites than the true downtown area on the west side of the tracks. The City recently purchased a parking lot at DeLo that it advertises as an amenity for downtown parking, so allowing retail sales there seems equivalent to allowing them at Pine Street Plaza. As owner of some of the Pine Street properties, we have no current or future plans to add such a use, but it seems a matter of equity to allow it as part of this update. Disallowing downtown sites has been portrayed as not wanting families and children to walk by these stores during social, shopping, dining and event visits to downtown and I am in complete agreement with this sentiment. The Pine Street area east of the tracks has no such foot traffic. The question of cultivation in industrial areas involves larger changes for regulation and enforcement and I do not have an opinion on this option.

Thank you for your consideration,

Mike Kranzdorf
Amterre Property Group LLC
1100 - 1140 Pine Street
Louisville, CO 80027

Meredyth Muth

From: Andrew Freeman <andrew@wwreynolds.com>
Sent: Tuesday, October 30, 2018 12:22 PM
To: Planning; City Council
Subject: Colorado Technological Center MJ
Attachments: CTCOA Letter to Louisville re Expansion of Marijuana Uses.pdf

To: City Council and Planning Department City of Louisville
From: Andrew Freeman – The WW Reynolds Companies and Freeman Capital Management LLC.
Date: 10/30/2018

I have been working in the Colorado Technological Center since 1990, own two buildings, under contract on 6 acres and completed over 200 acres of land and 750,000 square feet of lease and sale transaction during that period. I am a former board member of the CTC Owners Association and past President of the CTC Metro District.

Respectfully, the attitude expressed in the CTCOA letter attached is not the correct interpretation I have regarding the Marijuana industry and the impact it would have in the Colorado Technological Center. I support the expansion of the code to allow for marijuana and related product warehousing, mfg. and extraction and don't believe they are more noxious uses than many other uses in the park or the multiple retail dispensaries that have been approved and occupy many of the major retail properties in Louisville.

If I understand this correctly, the City of Louisville is now considering a change to the municipal code that would allow expanded medical and retail marijuana uses to include warehouse, manufacturing and extraction of MJ and byproducts such as CBD. I currently may not have all the facts yet and playing a bit of catch up on this issue but understand per Chuck Reid from CliftonLarsonAnderson, manager of the association and metro district, that the attached letter from the President of the association was sent to the City of Louisville but never sent to the building owners for their feedback on this important issue. The issue could have been discussed at the last annual meeting, however (right or wrong) I know from experience that many of the building owner's generally don't show up for these meetings thus probably should not have not been the only point of communication regarding the change in the municipal code.

I believe if the code expansion is approved, it will have a significant positive effect on property values and tax base in the park. Industrial real estate in Boulder, Lafayette and Denver have experienced significant increase in property values without much negative feedback since recreational MJ was approved in Colorado. Ave per square foot building prices for older industrial buildings in the 10,000 to 50,000 square foot range have doubled since the approval, thus has not had a significant effect on properties larger than 75,000 square feet. The impact of this approval will mostly effect the smaller/older buildings in the park such as the property I own at 740 South Pierce and 397 S Taylor – both under 75,000 square feet/Pierce was built in the early 80s.

Medical and recreational MJ is an allowed retail use in Louisville and there are multiple dispensaries in Louisville, and as far as I know the retail property owners are receptive to this use and it is not only not disturbing other tenants, its attracting more people to the centers. Many of these center's include cross fit, coffee shops, popular restaurants and other businesses the generally draw families from the area. My family is a frequent customers of many of the shops in centers occupied by MJ dispensaries along McCaslin. *My mother is 85 years old and buys CBD lotion at one of the dispensaries on McCaslin which assists with her arthritis and other pain she experiences from being a three time cancer survivor.*

While there has been a learning curve, I believe that MJ manufacturing extraction grow etc has made a positive impact on the industrial market and overall economy and many multi-million dollar entities with boards and sophisticated management are running these corporation.

According to the this recent article in Forbes "To put this in perspective, this industry growth is larger and faster than even the dot-com era. During that time, GDP grew at a blistering pace of 22%. Thirty percent is an astounding number especially when you consider that the industry is in early stages" https://www.forbes.com/sites/debraborchardt/2017/01/03/marijuana-sales-totaled-6-7-billion-in-2016/#25c2acb975e3.

Another report from Shupilov:

Industrial and commercial real estate opportunities related to grow-ops

The Canadian marijuana industry 85 companies with a combined market value of about $30 billion. The new pot industry is expected to put pressure on the industrial real estate market amid a booming economy. According to Cushman & Wakefield (a commercial real estate firm) the industrial vacancy rate at the end of 2017 was at its lowest since 2011 at 3.9% . **Rents for industrial spaces went up 15% in Vancouver and 7.3% in Toronto from 2016 to 2017.**

Vacant warehouses and factories have become valuable real estate opportunities for the grow-ops, pot shops and other initiatives within the pot industry, which has put created a huge demand for commercial operations. **States like Colorado and Washington are seeing premium prices for commercial buildings with the proper zoning.**

In Edminton, there are already some big players in the market. Aurora Cannabis is completing on an 800,000 square foot facility near the airport, and Canopy Growth recently did a deal for 160,000 square feet in south Edmonton.*See link for full article* https://news.shupilov.com/section/market/trends/how-will-marijuana-legalization-impact-the-real-estate-market-in-montreal/

Multiple states have approved both medical and recreational MJ and Canada recently legalized MJ. This product is also helping a large part of the population that have seizure disorders, cancer treatments and opioid addiction.

Having over 25 years of experience in this park, I would like the park to remain diverse which will keep the area healthy over the short and long term, and again believe that this use would be an excellent complement to the current approved uses in the business park.

Thanks you,

Andrew Freeman
The WW Reynolds Companies
Freeman Capital Management

Meredyth Muth

From: sherry sommer <hellosherry2@yahoo.com>
Sent: Monday, November 5, 2018 4:08 PM
To: City Council
Subject: Marijuana discussion

I haven't been following the discussion about rules for marijuana sales so I was shocked to read if proposed changes. I especially question the wisdom of eliminating the buffer between public areas frequented by children and young adults. It also seems unwise to allow such large stores, up to 5,000 ft.

I understand that you would like to align the rules for marijuana with the current rules for liquor. Obviously we don't want young people getting involved with either, but they do and it's a problem in our schools. It's not accurate to say alcohol and marijuana are exact equivalents. The effect of marijuana on brain development in young people is quite serious.

I personally think the rules should remain as they are currently written.

Sincerely,

Sherry Sommer

Personally I think the rules

Sent from my iPhone

Meredyth Muth

From: sherry sommer <hellosherry2@yahoo.com>
Sent: Friday, November 30, 2018 5:52 PM
To: City Council; Rob Zuccaro
Subject: Under Siege: Marijuana and Colorado Schools | Rocky Mountain PBS

Dear Members of City Council and Planning Commission,

I wanted to pass along this article about the connection between increasing dispensaries and high school drug use.

—Even if dispensaries rigorously adhere to rules, increased prevalence increases teen access to marijuana.
This is not a trend I hope we would be encouraging with city policy.
—City rules regarding buffers need to be in compliance with Federal law. The proposed elimination or reduction of buffers in Louisville would not be in compliance. As you can read in the article, dispensaries in violation of Federal rules in Denver will not be allowed to continue operation.

Thank you,

Sherry Sommer

http://www.rmpbs.org/blogs/news/under-siege-marijuana-and-colorado-schools/

Sent from my iPhone

From: Whitney Todaro
To: City Council
Subject: Marijuana proposal
Date: Wednesday, November 7, 2018 3:17:41 PM

Hello,
I just read an article about the possible changes to the marijuana regulations in Louisville. For what it's worth, I would support keeping the current buffer zone from schools as well as the code that keeps marijuana businesses out of downtown Louisville. While I understand there is an economic benefit to the town to allow for more of these shops to open up, I think having one downtown would draw away from it's charm (as would a liquor store for that matter).
Thank you,
Whitney Todaro
220 W Sycamore Lane
Louisville, CO 80027

	Retail Marijuana Taxation Ballot Questions - through Spring 2018
Municipality	**Ballot Language**
FALL 2013	
CARBONDALE	Excise Tax of 5%
BOULDER	Excise Tax 5% and up to 10%
BRECKENRIDGE	Excise tax 5%
RED CLIFF	Excise Tax of 15%
FRISCO	Excise tax 5%
SILVERTHORNE	Excise tax 5%
SPRING 2014	
SILVERTON	Excise tax 3%
DILLON	Excise tax 5%
FRUITA	Excise tax 5%
GUNNISON	Sales tax 5% Excise tax 5%
Fall 2014	
CANON CITY	Excise tax 5%
DE BEQUE	Excise tax 5%
AURORA	Excise tax 5%
LAFAYETTE	Excise tax up to 10%
RIFLE	Excise tax 5%
SILVER PLUME	Excise tax 4%

HAYDEN	Excise tax 7.5%
FALL 2015	
COMMERCE CITY	Excise tax 5%
PARACHUTE	Excise tax 5%
LEADVILLE	Excise tax 5%
LOG LANE VILLAGE	Excise tax 1.5%
LYONS	Excise tax 10%
Spring 2016	
BLANCA	Excise tax 5%
PUEBLO	Excise tax 8%
SEDGWICK	Excise tax 2%
SILVER CLIFF (measure to allow failed)	Sales tax 10% Excise tax 10%
FALL 2016	
PONCHA SPRINGS	Sales tax 5% Excise tax 5%
DINOSAUR	Excise tax 5%
PALISADE	Excise tax 5%
PARACHUTE	Excise tax 5%
SPRING 2017	
FLORENCE	Excise tax 5%
NUNN	Excise tax 5%

BERTHOUD	Sales tax 7% Excise tax 7%
GLENWOOD SPRINGS	Excise tax 5%
FALL 2017	
EAGLE	Sales tax 2.5% Excise tax 2.5%
COMMERCE CITY	Excise tax 5%
LOG LANE VILLAGE	Excise tax 5%
FEDERAL HEIGHTS	Excise tax 5%
SHERIDAN	Excise tax 5%
MONTE VISTA	Sales tax 18% Excise tax 18%
DELTA	Excise tax 5%
WALSENBURG	Excise tax 5%
SPRING 2018	
CRAWFORD	Sales tax 5% Excise tax 5%
NATURITA	Excise tax 5%

	Retail Marijuana Taxation Ballot Questions - through Fall 2017	
Municipality	Ballot Language	Pass/Fail; Y-N
FALL 2013		
	Sales Tax Measures	
CARBONDALE	2C: SHALL THE TOWN OF CARBONDALE'S TAXES BE INCREASED BY $394,875 IN THE FIRST FULL FISCAL YEAR, BEGINNING JANUARY 1, 2014, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND AN EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA ON THE DATE THAT IT IS FIRST SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA CULTNATION FACILITY TO A RETAIL MARIJUANA STORE OR RETAIL MARIJUANA PRODUCTS MANUFACTURER, WITH THE RESULTING SALES OR EXCISE TAX RATES CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT, NOTWITHSTANDING ANY OTHER LIMITATIONS PROVIDED BY LAW, AND USED TO FUND THE ENFORCEMENT OFREGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION, AND OTHER TOWN EXPENSES?	PASS, 1162-425
DENVER	Referred Question 2A “SHALL CITY TAXES BE INCREASED BY $4.48 MILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 3.5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER CITY EXPENSES, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?”	PASS, 69%-31%

FRASER	Referred Measure 2C SHALL TOWN OF FRASER TAXES BE INCREASED BY $100,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING A RETAIL MARIJUANA TAX OF FIVE PERCENT (5%) ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WHICH SHALL BE IN ADDITION TO THE MUNICIPAL SALES TAX ON SUCH SALES; AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT TO PROMOTE THE GENERAL PURPOSES OF THE TOWN OF FRASER AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 219-85
LITTLETON	Ballot Issue 2E SHALL CITY OF LITTLETON TAXES BE INCREASED BY AN ESTIMATED $120,000 IN 2014 (THE FIRST FULL FISCAL YEAR) AND WHATEVER AMOUNTS MAY BE COLLECTED IN FUTURE YEARS BY ADDING A NEW CHAPTER 22 TO TITLE 3 OF THE CITY CODE OF THE CITY OF LITTLETON TO IMPOSE A TAX OF THREE PERCENT (3%) OF THE PURCHASE PRICE PAID OR CHARGED FOR SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS IN THE CITY OF LITTLETON IN ADDITION TO THE SALES TAX AND ANY OTHER STATE TAX IMPOSED ON SUCH SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS? AND SHALL ALL REVENUE RECEIVED FROM SUCH TAX INCREASE AND ANY INVESTMENT INTEREST THEREON BE A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 63.8%-36.1%
MANITOU SPRINGS	2A - CITY OF MANITOU SPRINGS SHALL CITY OF MANITOU SPRINGS' TAXES BE INCREASED BY ONE HUNDRED TWENTY TWO THOUSAND DOLLARS ($122,000.00) ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 10%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT BY THE CITY WITHOUT REGARD TO ANY EXPENDITURE, REVENUERAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 66%-33%

MOUNTAIN VIEW	BALLOT ISSUE NO. 1 SHALL TOWN OF MOUNTAIN VIEW TAXES BE INCREASED $100,000.00 ANNUALLY IN THE FIRST FISCAL YEAR AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY IN EACH SUBSEQUENT YEAR BY THE IMPOSITION OF A 5% TAX ON THE PURCHASE OR SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, COMMENCING ON JANUARY 1, 2014, THE PROCEEDS OF SUCH TAX TO BE USED FOR POLICE PROTECTION, COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, AND RELATED SERVICES, AND SHALL THE PROCEEDS OF SUCH TAX AND INVESTMENT INCOME THEREON CONSTITUTE VOTER-APPROVED REVENUE CHANGES AND BE COLLECTED AND SPENT BY THE TOWN WITHQUTREGAR.D TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 86-34
NORTHGLENN	SHALL CITY OF NORTHGLENN TAXES BE INCREASED BY FOUR HUNDRED FIFTY THOUSAND DOLLARS ($450,000) ANNUALLY IN THE FIRST FISCAL YEAR, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING A NEW SALES TAX OF TWO PERCENT (2%) ON THE SALE OF RETAIL MARIJUANA AND MEDICAL MARIJUANA, AND RETAIL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS, WHICH SHALL BE IN ADDITION TO THE MUNICIPAL SALES TAX ON SUCH SALES, AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT TO BE USED EXCLUSIVELY FOR THE CONSTRUCTION OF PUBLIC FACILITIES, INCLUDING, BUT NOT LIMITED TO, THE NORTHGLENN RECREATION CENTER, THE NORTHGLENN SENIOR CENTER, AND THE NORTHGLENN THEATRE AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 6791-3926
RED CLIFF	2G: SHALL TOWN OF RED CLIFF TAXES BE INCREASED BY $50,000.00 IN THE FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014 AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION ON JANUARY 1, 2014 OF A NEW SALES TAX ON THE RETAIL SALE OF MARIJUANA, MARIJUANA PRODUCTS AND MARIJUANA ACCESSORIES BY LICENSED MARIJUANA ESTABLISHMENTS AT A RATE OF UP TO 5 PERCENT (5%), AND BY THE IMPOSITION ON JANUARY 1, 2014 OF A NEW EXCISE TAX ON THE SALE OF MARIJUANA BY A MARIJUANA CULTIVATION FACILITY TO ANOTHER LICENSED MARIJUANA ESTABLISHMENT AT A RATE OF UP TO 15 PERCENT (15%), WITH SUCH ADDITIONAL REVENUES AS ARE GENERATED BY THE NEW TAX TO BE COLLECTED, RETAINED AND SPENT FOR THE PURPOSE OF FUNDING MUNICIPAL SERVICES AND OPERATIONS AND/OR OTHER LAWFUL GENERAL MUNICIPAL PURPOSES, AS A VOTER APPROVED REVENUE CHANGE, OFFSET AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 53-27

	Excise Tax Measures	
BOULDER	BALLOT ISSUE NO. 2A: RECREATIONAL MARIJUANA TAX SHALL CITY OF BOULDER TAXES BE INCREASED BY ($3,360,000 FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 5 PERCENT IN 2014 AND UP TO 10 PERCENT THEREAFTER ON THE CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF TRANSFER FROM THE CULTIVATION FACILITY AND AN ADDITIONAL SALES AND USE TAX OF 3.5 PERCENT IN 2014 AND UP TO 10 PERCENT THEREAFTER ON RECREATIONAL MARIJUANA AS PROVIDED IN ORDINANCE NO. 7916 COMMENCING JANUARY 1, 2014 WITH SUFFICIENT REVENUES FROM THE EXCISE AND SALES AND USE TAX TO BE USED FOR PUBLIC SAFETY, ENFORCEMENT AND ADMINISTRATIVE PURPOSES AND FOR COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS INCLUDING WITHOUT LIMITATION PREVENTION, TREATMENT, EDUCATION, RESPONSIBLE USE, INTERVENTION, AND MONITORING, WITH AN EMPHASIS ON YOUTH, AND WITH THE REMAINDER USED BY THE GENERAL FUND; AND IN CONNECTION THEREWITH, SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND	PASS, 18,461-9,295
BRECKENRIDGE	2C: SHALL TOWN OF BRECKENRIDGE TAXES BE INCREASED BY SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) IN THE FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, EFFECTIVE JANUARY 1, 2014, A NEW EXCISE TAX ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA CODE AND APPLICABLE TOWN ORDINANCES, AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, IN ACCORDANCE WITH ORDINANCE NO. 29, SERIES 2013, WHICH IS HEREBY APPROVED; AND SHALL THE REVENUE RECEIVED BY THE TOWN FROM THE COLLECTION OF SUCH NEW TAX BE USED TO PAY OR REIMBURSE THE TOWN FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE TOWN FOR ADEQUATE TRAINING, ENFORCEMENT, AND ADMINISTRATION OF ALL APPLICABLE MARIJUANA LAWS AND REGULATIONS, TO SUPPORT LOCAL DRUG AND ALCOHOL PROGRAMS AND FACILITIES, AND FOR OTHER GENERAL PURPOSES OF THE TOWN; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION ?	PAS,S 73%-27%

FRISCO	2A: SHALL TOWN OF FRISCO TAXES BE INCREASED BY TWO HUNDRED SEVENTYFIVE THOUSAND DOLLARS ($275,000) IN THE FISCAL YEAR COMMENCING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW EXCISE TAX, EFFECTIVE JANUARY 1, 2014, ON THE AUTHORIZED (UNDER STATE LAW) RETAIL SALE WITHIN THE TOWN OF MARIJUANA IN ANY FORM, INCLUDING BUT NOT LIMITED TO, A MARIJUANA PRODUCT AS DEFINED BY STATE LAW, AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OF THE MARIJUANA, IN ACCORDANCE WITH TOWN OF FRISCO ORDINANCE 13-_; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION ?	PASS, 78%-22%
SILVERTHORNE	2F: SHALL TOWN OF SILVERTHORNE TAXES BE INCREASED BY $100,000.00 IN CALENDAR YEAR 2014 AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY IN EACH SUBSEQUENT YEAR, BY THE IMPOSITION OF AN EXCISE TAX ON THE SALE OF MARIJUANA AND MARIJUANA PRODUCTS (AS SUCH ARE AUTHORIZED BY STATE LAW, (WITH THE EXCEPTION OF MEDICAL MARIJUANA AND PRODUCTS RELATED THERETO), COMMENCING JANUARY 1, 2014 AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER, WHICH TAX REVENUES SHALL BE EXPENDED FOR, BUT NOT BE LIMITED TO: • MENTAL HEALTH SUPPORT SERVICES WITHIN THE TOWN, AND • DUI ENFORCEMENT WITHIN THE TOWN, AND SHALL THE TOWN BE PERMITTED TO COLLECT, RETAIN AND SPEND THE REVENUES FROM SUCH TAX, INCLUDING ALL INTEREST DERIVED THEREFROM, WITHOUT REGARD TO THE REVENUE RAISING, DEBT LIMITATION OR OTHER RESTRICTIONS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 72.1%-27.9%
	Occupation Tax Measures	

EAGLE	2F: SHALL THE TOWN OF EAGLE'S TAXES BE INCREASED BY $50,000.00 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX UP TO $5.00 FOR EACH SALES TRANSACTION BY ANY RETAIL MARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN OF EAGLE, EFFECTIVE JANUARY 1, 2014; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES OR ANY OTHER LAW?	PASS, 1298-643
SPRING 2014		
	Sales Tax Measures	
Black Hawk	Ballot Issue #1: Shall City taxes be increased by imposing a new sales tax of 5% on sale of retail marijuana & medical marijuana and retail marijuana & medical marijuana products.	PASS, 40-4
Silverton	REFERRED MEASURE A SHALL THE TOWN OF SILVERTON'S TAXES BE INCREASED BY $20,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 1% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER GENERAL PURPOSES OF THE TOWN, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 1%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER SPENDING, REVENUE-RAISING, OR OTHER LIMITATIONS PROVIDED BY LAW?	PASS, 348-64
	Excise Tax Measures	

Dillon	SHALL THE TOWN OF DILLON TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS ($100,000) IN 2015 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE), AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING EFFECTIVE January 1, 2015, A NEW EXCISE TAX ON (1) the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility and (2) THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS permitted by Article XVIII, Section 16 of the Colorado Constitution but not on the sale of medical marijuana pursuant to Article XVIII, Section 14 of the Colorado Constitution, AT THE RATE OF FIVE PERCENT (which rate may be adjusted from time to time by the Council so long as it does not exceed five percent) OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER APPROVED BY THE COUNCIL; AND SHALL THE REVENUE RECEIVED BY THE TOWN FROM THE COLLECTION OF SUCH NEW TAX BE USED TO PAY OR REIMBURSE THE TOWN FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE TOWN FOR ADEQUATE TRAINING, ENFORCEMENT, AND ADMINISTRATION OF ALL APPLICABLE MARIJUANA LAWS AND REGULATIONS, TO SUPPORT LOCAL DRUG AND ALCOHOL PROGRAMS AND FACILITIES, AND FOR OTHER GENERAL PURPOSES OF THE TOWN; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 115-34
Fruita	Referred Issue B: SHALL THE CITY OF FRUITA'S TAXES BE INCREASED BY $100,000 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE), AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A MARIJUANA EXCISE TAX AT THE RATE OF 5% OF THE PRICE PAID FOR THE PURCHASE OF RETAIL MARIJUANA, RETAIL MARIJUANA PRODUCTS AND RETAIL MARIJUANA ACCESSORIES WITH SUCH REVENUE TO BE USED FOR ADDITIONAL COSTS INCURRED FOR ADEQUATE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, AND ADMINISTRATION OF RETAIL MARIJUANA REGULATIONS AND OTHER GENERAL PURPOSES OF THE CITY; AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION?	PASS, 1913-1425
Larkspur	SHALL THE TOWN OF LARKSPUR, COLORADO ENACT ORDINANCE 7.85 TO ADOPT AN ADULT USE MARIJUANA EXCISE TAX OF 5% ON THE PRICE PAID FOR RETAIL MAIJUANA, RETAIL MARIJUANA PRODUCTS, AND RETAIL MARIJUANA ACCESSORIES TO COVER THE COST OF ADMINISTRATIVE AND ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY AS ALLOWED UNDER AMENDMENT 64 OF THE COLORADO CONSTITUTION?	FAIL, 23-75

Silverton	REFERRED MEASURE B SHALL THE TOWN OF SILVERTON TAXES BE INCREASED BY $60,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING A 3% WHOLESALE EXCISE TAX ON ALL MARIJUANA WHOLESALE TRANSACTIONS, WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL AND MEDICAL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER GENERAL PURPOSES OF THE TOWN, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHERVOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 3%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER SPENDING, REVENUE-RAISING, OR OTHER LIMITATIONS PROVIDED BY LAW?	PASS, 331-79
	Occupation Tax Measures	
Mancos	SHALL THE TOWN OF MANCOS TAXES BE INCREASED BY $50,000 IN 2015 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE), AND BY WHATEVER ADDrTIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTrVE JANUARY I, 2015. A NEW OCCUPATION TAX ON THE OCCUPATION OF SELLING WITHIN THE TOWN RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PERMITTED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION (BUT NOT ON THE SALE OF MEDICAL MARIJUANA PURSUANT TO ARTICLE VIII, SECTION 14 OF THE COLORADO CONSTITUTION), SUCH TAX TO BE IMPOSED AT A MAXIMUM RA TE OF TEN DOLLARS PER SINGLE RETAIL TRANSACTION FOR THE SALE OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS WITHIN THE TOWN (WHICH TAX MAY BE DJUSTED FROM TIME TO TIME BY THE BOARD OF TRUSTEES WITHOUT FURTHER ELECTIONS SO LONG AS IT DOES NOT EXCEED TEN DOLLARS PER RETAIL TRANSACTION) IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER APPROVED BY THE BOARD OF TRUSTEES, ROVIDED THAT ANY SUCH TAX SHALL BE IMPOSED ONLY IF THE SALE OF RETAIL MARIJUANA IS PERMITTED WITHIN THE TOWN, AND NOTHING HEREIN SHALL BE CONSTRUED AS APPROVING THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS; AND SHALL THE PROCEEDS OF ANY SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE TOWN AS A VOTER-APPROVED REVENUE CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE TOWN?	PASS, 206-66

Sedgwick	ISSUE 1A SHALL TOWN OF SEDGWICK TAXES BE INCREASED BY $1,000,000.00 (FIRST FULL FISCAL YEAR INCREASE) AND ANNUALLY THEREAFTER IN SUCH AMOUNTS AS ARE RECEIVED EACH YEAR FROM THE LEVY OF AN OCCUPATION TAX AT A RATE OF $5.00 PER SALES TRANSACTION BY ANY RETAIL MARIJUANA STORE WITHIN THE TOWN OF SEDGWICK, TO COMMENCE JULY 1, 2014, AND WITH ALL REVENUES DERIVED FROM SUCH TAX TO BE COLLECTED, RETAINED AND SPENT FOR ANY LAWFUL MUNICIPAL PURPOSE; AND SHALL THE TOWN BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 27-4
Sedgwick	ISSUE 2A SHALL TOWN OF SEDGWICK TAXES BE INCREASED BY $1,000,000.00 (FIRST FULL FISCAL YEAR INCREASE) AND ANNUALLY THEREAFTER IN SUCH AMOUNTS AS ARE RECEIVED EACH YEAR FROM THE LEVY OF AN OCCUPATION TAX AT A RATE OF $100.00 PER SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY ANY RETAIL MARIJUANA CULTIVATION FACILITY WITHIN THE TOWN OF SEDGWICK, TO COMMENCE JULY 1, 2014, AND WITH ALL REVENUES DERIVED FROM SUCH TAX TO BE COLLECTED, RETAINED AND SPENT FOR ANY LAWFUL MUNICIPAL PURPOSE; AND SHALL THE TOWN BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 26-5
Fall 2014		
	Sales Tax Measures	
Basalt	SHALL THE TOWN OF BASALT, COLORADO, ACTINGTHROUGH ITS TOWN COUNCIL, BEGINNING JANUARY 1, 2015, BE AUTHORIZED TO IMPOSE AN ADDITIONAL MUNICIPAL SALES TAX OF 5% ON THE SAMPLE SALES OF RETAIL MARIJUANA AND MARIJUANA PRODUCTS WITH THE RESULTING SALES TAX RATE CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE BASALT TOWN COUNCIL, WITH THE RESULTING TAX REVENUES TO BE COLLECTED AND SPENT TO PAY DIRECT AND INDIRECT EXPENSES RELATED TO THE LICENSING AND REGULATION OF THE RETAIL MARIJUANA INDUSTRY, ENFORCEMENT OF MARIJUANA LAWS IN GENERAL, EDUCATION AND PUBLIC HEALTH PROGRAMS TO MITIGATE ANY NEGATIVE CONSEQUENCES ASSOCIATED WITH THE CONSUMPTION OF MARIJUANA AND MARIJUANA PRODUCTS, PROGRAMS TO PREVENT THE ILLEGAL DIVERSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE (21); AND TO OTHERWISE PAY THE EXPENSES OF OPERATING AND IMPROVING THE TOWN AND ITS FACILITIES?	PASS, 970-375

Federal Heights	3) SHALL THE CITY OF FEDERAL HEIGHTS' TAXES BE INCREASED BY ($300,000) ANNUALLY BEGINNING IN 2015 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2015, AN ADDITIONAL SALES TAX AT THE RATE OF FIVE PERCENT UPON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CITY AS LEGALIZED BY ARTICLE XVIII, SECTION 16, OF THE COLORADO CONSTITUTION (WHICH RATE MAY BE ADJUSTED, FROM TIME TO TIME BY CITY COUNCIL, UPON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHOUT FURTHER VOTER APPROVAL SO LONG AS SUCH RATE DOES NOT EXCEED TEN PERCENT) WITH SUCH SALES TAX TO BE IN ADDITION TO THE APPLICATION OF THE CITY'S SALES TAX AND THE REVENUE RECEIVED BY THE CITY FROM THE COLLECTION OF THE SALES TAX TO BE USED TO PAY OR REIMBURSE THE CITY FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE CITY RELATED TO THE REGULATION OF THE USE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, TO SUPPORT LOCAL DRUG EDUCATION PROGRAMS, PREVENTION OF UNDERAGE CONSUMPTION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PURPOSES OF THE CITY, WITH THE REVENUE FROM SUCH TAX AND ANY EARNINGS FROM THE INVESTMENT THEREOF TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 1175-1052
Gunnison	SHALL THE CITY OF GUNNISON TAXES BE INCREASED BY $150,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION AND ASSESSMENT OF AN ADDITIONAL SALES TAX IN THE AMOUNT OF FIVE PERCENT (5%) ON THE SALE OF MEDICAL MARIJUANA, MEDICAL MARIJUANA INFUSED PRODUCTS, RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AND AN EXCISE TAX IN THE AMOUNT OF FIVE PERCENT (5%) OF THE CASH VALUE OF THE TRANSACTION ON THE SALE BY A RETAIL MARIJUANA CULTIVATION FACILITY OR RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY TO A LICENSED MARIJUANA ESTABLISHMENT OUTSIDE THE CITY OF GUNNISON, AND SHALL ALL REVENUES DERIVED FROM SUCH TAX COLLECTED BE SPENT TO DEFRAY COSTS INCURRED IN REGULATING THE MARIJUANA INDUSTRY, FUNDING SOCIAL, RECREATIONAL, AND EDUCATIONAL PROGRAMS WITHIN THE COMMUNITY AS MAY BE DETERMINED BY THE CITY INCLUDING SUBSTANCE ABUSE PREVENTION, EDUCATION AND COUNSELING PROGRAMS, AND TO PROMOTE THE GENERAL PURPOSES OF THE CITY OF GUNNISON AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION?	PASS, 974-472

Hot Sulphur Springs	SHALL TOWN OF HOT SULPHUR SPRINGS TAXES BE INCREASED BY $60,000 ANNUALLY IN THE FIRST FISCAL YEAR COMMENCING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2015, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, AND ONLY IN THE EVENT THAT THE TOWN BOARD OF TRUSTEES TAKES ACTION TO PERMIT THE RETAIL SALE OF MARIJUANA AND MARIJUANA INFUSED PRODUCTS WITHIN THE TOWN, BY IMPOSING, EFFECTIVE JANUARY 1, 2015, A NEW SALES TAX ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA CODE AND APPLICABLE TOWN ORDINANCES, AT THE RATE OF TEN PERCENT (10%) OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WHICH IS HEREBY APPROVED; WITH THE RATE OF SUCH SALES TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 15%?	FAIL, 175-154
Lyons	SHALL TOWN OF LYONS TAXES BE INCREASED BY $95,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR COMMENCING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2015, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, EFFECTIVE JANUARY 1, 2015, A NEW SALES TAX ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA CODE AND APPLICABLE TOWN ORDINANCES, AT THE RATE OF THREE POINT FIVE PERCENT (3.5%) OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WHICH IS HEREBY APPROVED; AND SHALL THE REVENUE RECEIVED BY THE TOWN FROM THE COLLECTION OF SUCH NEW TAX BE USED TO PAY OR REIMBURSE THE TOWN FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE TOWN FOR ADEQUATE TRAINING, ENFORCEMENT, AND ADMINISTRATION OF ALL APPLICABLE MARIJUANA LAWS AND REGULATIONS, TO SUPPORT LOCAL DRUG AND ALCOHOL PROGRAMS AND FACILITIES, AND FOR OTHER GENERAL PURPOSES OF THE TOWN, WITH THE RATE OF SUCH SALES TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION ?	PASS, 548-154

Northglenn	SHALL CITY OF NORTHGLENN TAXES BE INCREASED BY FOUR HUNDRED FIFTY THOUSAND DOLLARS ($450,000) ANNUALLY IN THE FIRST FISCAL YEAR, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING A NEW SALES TAX OF TWO PERCENT (2%) ON THE SALE OF RETAIL MARIJUANA AND MEDICAL MARIJUANA, AND RETAIL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS, WHICH SHALL BE IN ADDITION TO THE MUNICIPAL SALES TAX ON SUCH SALES, AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT TO BE USED EXCLUSIVELY FOR THE CONSTRUCTION OF PUBLIC FACILITIES, INCLUDING, BUT NOT LIMITED TO, THE NORTHGLENN RECREATION CENTER, THE NORTHGLENN SENIOR CENTER, AND THE NORTHGLENN THEATRE AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 6791-3926
Ouray	SHALL CITY OF OURAY'S TAXES BE INCREASED BY FIFTY-THREE THOUSAND DOLLARS ($53,000.00) IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 10%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT BY THE CITY WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 59-41%
Paonia	SHALL THE TOWN OF PAONIA TAXES BE INCREASED BY $50,000.00 IN 2015 (THE FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, EFFECTIVE JANUARY 1, 2015, A NEW TAX ON (1) THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY AND (2) THE SALE WITHIN THE TOWN OF PAONIA RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PERMITTED BY ARTICLE XVIII , SECTION 16 OF THE COLORADO CONSTITUTION AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OR TRANSFEREE OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE RATE OF EITHER OR BOTH TAXES BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED TEN PERCENT (10%), IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER APPROVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA; PROVIDED THAT ANY SUCH TAX SHALL BE IMPOSED ONLY IF RETAIL MARIJUANA ESTABLISHMENTS ARE PERMITTED WITHIN THE TOWN; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 481-286

Ramah	SHALL THE TOWN OF RAMAH TAXES BE INCREASED BY $50,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW TAX ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PERMITTED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION AT THE RATE OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OR TRANSFEREE OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED TEN PERCENT (10%), IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER APPROVED BY THE BOARD OF TRUSTEES OF THE TOWN OF RAMAH; PROVIDED THAT ANY SUCH TAX SHALL BE IMPOSED ONLY IF RETAIL MARIJUANA ESTABLISHMENTS ARE PERMITTED WITHIN THE TOWN; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	TIE, 28-28
Trinidad	SHALL CITY OF TRINIDAD TAXES BE INCREASED BY $100,000.00 (FIRST FISCAL YEAR DOLLAR INCREASE) IN THE FISCAL YEAR COMMENCING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2015 AND BY SUCH AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION ON JANUARY 1, 2015 OF A NEW SALES TAX ON THE RETAIL SALE OF MARIJUANA, MARIJUANA PRODUCTS AND MARIJUANA ACCESSORIES BY LICENSED MARIJUANA ESTABLISHMENTS AT A RATE OF FIVE PERCENT (5%), WITH SUCH ADDITIONAL REVENUES AS ARE GENERATED BY THE NEW TAX TO BE COLLECTED, RETAINED AND SPENT FOR THE PURPOSE OF FUNDING COMMUNITY DEVELOPMENT, PUBLIC SAFETY, YOUTH PROGRAMS, MUNICIPAL SERVICES AND OPERATIONS AND/OR OTHER LAWFUL GENERAL MUNICIPAL PURPOSES, AS A VOTER APPROVED REVENUE CHANGE, OFFSET AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 64%-36%
	Excise Tax Measures	

Aurora	SHALL AURORA'S TAXES BE INCREASED BY $2,400,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR OF SUCH INCREASE AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM THE IMPOSITION OF A 5.0% EXCISE TAX ON THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA THAT IS SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA CULTIVATION FACILITY AND AN ADDITIONAL 2.0% SALES AND USE TAX ON THE SALE AND USE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE RATE OF SUCH SALES AND USE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 10%, AND SHALL THE REVENUES FROM SUCH TAXES BE COLLECTED, RETAINED, AND SPENT AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, SECTION 11-27 OF THE AURORA CHARTER, OR ANY OTHER LAW WHICH PURPORTS TO LIMIT AURORA'S REVENUES OR EXPENDITURES?	PASS, 53624-32124
Canon City	SHALL THE CITY OF CAÑON CITY TAXES BE INCREASED BY $100,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW EXCISE TAX ON (1) THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY AND (2) THE SALE WITHIN THE CITY OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS PERMITTED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION AT THE RATE OF FIVE PERCENT (5%) [WHICH RATE MAY BE ADJUSTED FROM TIME TO TIME BY THE COUNCIL SO LONG AS IT DOES NOT EXCEED TEN PERCENT (10%)] OF THE PRICE PAID BY THE PURCHASER OR TRANSFEREE OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER APPROVED BY THE COUNCIL OF CAÑON CITY; PROVIDED THAT ANY SUCH TAX SHALL BE IMPOSED ONLY IF RETAIL MARIJUANA ESTABLISHMENTS ARE PERMITTED WITHIN THE CITY; AND SHALL THE REVENUE RECEIVED BY THE CITY FROM THE COLLECTION OF SUCH NEW TAX BE USED BY THE CITY TO MAINTAIN, REPAIR AND RECONSTRUCT PUBLIC STREETS WITHIN THE CITY; AND SHALL THE CITY BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 3801-2257

De Beque	SHALL THE TOWN OF DE BEQUE'S TAXES BE INCREASED BY $300,000.00 IN CALENDAR YEAR 2015, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY IN EACH SUBSEQUENT CALENDAR YEAR, BY THE IMPOSITION OF AN EXCISE TAX ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS SUCH ARE AUTHORIZED BY STATE LAW AND BY THE TOWN OF DE BEQUE, COMMENCING JANUARY 1, 2015, AT THE RATE OF FIVE PERCENT (5%) OF THE PURCHASE PRICE PAID BY EACH PURCHASER OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE TOWN, WHETHER FROM THE SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY AND/OR FROM THE SALE OF RETAIL MARIJUANA BY A RETAIL MARIJUANA STORE, AND SHALL ALL SUCH TAX REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, NOT WITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN THE COLORADO CONSTITUTION OR OTHER APPLICABLE LAW?	PASS, 81-44
Hot Sulphur Springs	SHALL TOWN OF HOT SULPHUR SPRINGS TAXES BE INCREASED BY $60,000 ANNUALLY IN THE FIRST FISCAL YEAR COMMENCING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, AND ONLY IN THE EVENT THAT THE TOWN BOARD OF TRUSTEES TAKES ACTION TO PERMIT THE OPERATION OF RETAIL MARIJUANA CULTIVATION FACILITIES WITHIN THE TOWN, BY IMPOSING, EFFECTIVE JANUARY 1, 2015, A NEW EXCISE TAX OF 10%TO BE PAID TO THE TOWN WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY; WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 15%?	FAIL, 175-152

Lafayette	SHALL THE CITY OF LAFAYETTE TAXES BE INCREASED BY $240,000 ANNUALLY BEGINNING IN 2015 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2015, A NEW EXCISE TAX UPON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY WITHIN THE CITY AND UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CITY, ALL AS LEGALIZED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, AT THE RATE OF FIVE PERCENT (WHICH RATE MAY BE ADJUSTED FROM TIME TO TIME BY THE CITY COUNCIL ON EITHER THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY OR UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS OR UPON BOTH SUCH SALES OR TRANSFERS WITHOUT FURTHER VOTER APPROVAL SO LONG AS SUCH RATE DOES NOT EXCEED TEN PERCENT), WITH SUCH EXCISE TAX TO BE IN ADDITION TO THE APPLICATION OF THE CITY'S SALES TAX, AND THE REVENUE RECEIVED BY THE CITY FROM THE COLLECTION OF THE EXCISE TAX TO BE USED TO PAY OR REIMBURSE THE CITY FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BYTHE CITY RELATED TO THE REGULATION OF THE USE OF RETAIL MARIJUANA ANDRETAIL MARIJUANA PRODUCTS, TO SUPPORT LOCAL DRUG EDUCATION PROGRAMS, PREVENT UNDERAGE CONSUMPTION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PURPOSES OF THE CITY, AND WITH THE REVENUE FROM SUCH TAX AND ANY EARNINGS FROM THE INVESTMENT THEREOF TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	PASS, 4830-1741
Pueblo	SHALL THE CITY OF PUEBLO'S TAXES BE INCREASED BY $ 986,249 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) BEGINNING JANUARY 1, 2015 AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, THROUGH THE ADOPTION OF ORDINANCE NO. 8754 IMPOSING AN EXCISE TAX OF 8.0 % WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY AND BY IMPOSING AN ADDITIONAL SALES TAX OF 4.3 % ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITH THE RATE OF EITHER OR BOTH TAXES BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF EITHER TAX DOES NOT EXCEED 15.0 % AND SHALL ALL REVENUES DERIVED FROM SUCH TAXES BE COLLECTED, RETAINED AND SPENT, NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW, AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW AND ALLOWING SUCH REVENUE TO BE EXPENDED AS THE CITY COUNCIL SHALL DETERMINE?	FAIL, 52-48%

Rifle	SHOULD THE CITY OF RIFLE'S TAXES BE INCREASED BY $250,000, BEGINNING JANUARY 1, 2015, AND BY SUCH AMOUNTS THAT ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN EXCISE TAX IN THE AMOUNT OF 5% OF THE MARKET RATE OF RETAIL MARIJUANA,UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA FROM A RETAIL MARIJUANA CULTIVATION FACILITY WITHIN THE CITY OF RIFLE TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY OR ANY OTHER PURCHASER OR TRANSFEREE, WITHIN OR WITHOUT THE CITY OF RIFLE; WITH THE MARKET RATE OF MARIJUANA TO EQUAL, IN ANY EVENT,THE AVERAGE MARKET RATE FOR RETAIL MARIJUANAUNDER C.R.S.§ 39-28.8-101, AS THAT CODE SECTION MAY BE AMENDED; WITH THE RESULTING TAX REVENUES TO BE COLLECTED BY THE CITY AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY APPLICABLE REVENUE OR EXPENDITURE LIMITATION IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS, 1451-849
Silver Plume	SHALL THE TOWN OF SILVER PLUMES TAXES BE INCREASED BEGINNING IN CALENDAR YEAR 2015, BY IMPOSING A NEW EXCISE TAX EFFECTIVE JANURARY 1, 2015, ON THE SALE WITHIN THE TOWN OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS SUCH ARE AUTHORIZED BY STATE LAW, AT THE RATE OF FOUR PERCENT OF THE PRICE PAID BY THE PURCHASER OF THE RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE RATE OF TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 8% AND THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?	PASS, 99-7
	Occupation Tax Measures	
Empire	SHALL THE TOWN OF EMPIRE'S TAX REVENUE BE INCREASED BY AN ESTIMATED $1000 ANNUALY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX UP TO $5.00 FOR EACH WHOLESALE TRANSACTION (NON-MEDICAL) OF MARIJUANA OR MARIJUANA PRODUCTS BY ANY ADULT USE MARIJUANA CENTER, MARIJUANA CULTIVATION FACILITY AND MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN OF EMPIRE, EFFECTIVE JANUARY 1, 2015; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES OR ANY OTHER LAW?	PASS, 70-35

Palisade	"SHALL THE TOWN OF PALISADE'S TAXES BE INCREASED BY $200,000.00 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX IN THE AMOUNT OF $5.00 FOR EACH SALES TRANSACTION THAT IS LESS THAN $100.00, IN THE AMOUNT OF $10.00 FOR EACH SALES TRANSACTION THAT IS $100.00 OR OVER BUT LESS THAN $500.00, AND IN THE AMOUNT OF $25.00 FOR EACH SALES TRANSACTION THAT IS $500.00 OR OVER INVOLVING THE SALE OR PURCHASE OF RETAIL MARIJUANA, RETAIL MARIJUANA PRODUCTS OR RETAIL MARIJUANA ACCESSORIES BY ANY RETAIL MARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN OF PALISADE, EFFECTIVE JANUARY 1, 2015; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES OR ANY OTHER LAW?	PASS, 60-40%
Spring 2015		
	There were no marijuana tax ballot actions in spring 2015 elections	
Fall 2015		
COMMERCE CITY	ISSUE NO.1SHALL THE CITY OF COMMERCE CITY TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS IN THE FISCAL YEAR COMMENCING JANUARY 1, 2016, AND ENDING DECEMBER 31, 2016, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX ON THE SALE OF MARIJUANA AND MARIJUANA PRODUCTS AS SUCH ARE AUTHORIZED BY STATE LAW COMMENCING JANUARY 1, 2016 AT THE RATE OF FIVE PERCENT OF THE PRICE PAID BY THE PURCHASER, IN ACCORDANCE WITH CITY ORDINANCE 2050; AND SHALL THE CITY BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 63-37%
DENVER	2B May the City and County of Denver retain and spend all 2014 revenues derived from the special retail marijuana sales tax as originally approved by the voters on November 5, 2013, and continue to impose and collect the tax to the full extent permitted by the original voter approval?	Pass 81-19%

GEORGETOWN	SHALL THE TOWN OF GEORGETOWN TAXES BE INCREASED BY $100,000 IN 2016 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE), AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2016, A NEW OCCUPATION TAX ON THE OCCUPATION OF SELLING WITHIN THE TOWN RETAIL AND WHOLESALE MARIJUANA AND RETAIL AND WHOLESALE MARIJUANA PRODUCTS PERMITTED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, SUCH TAX TO BE IMPOSED AT A MAXIMUM RATE OF FIVE DOLLARS PER SINGLE RETAIL OR WHOLESALE TRANSACTION WITHIN THE TOWN (WHICH TAX MAY BE ADJUSTED FROM TIME TO TIME BY THE BOARD OF SELECTMEN WITHOUT FURTHER ELECTIONS SO LONG AS IT DOES NOT EXCEED FIVE DOLLARS PER TRANSACTION) IN ACCORDANCE WITH ANY ORDINANCES HEREAFTER ADOPTED BY THE BOARD OF SELECTMEN; AND SHALL THE PROCEEDS OF ANY SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE TOWN AS A VOTER-APPROVED REVENUE CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES, OR ANY OTHER LAW?	Pass 52-48%
HAYDEN	REFERENDUM 2D SHALL THE TOWN OF HAYDEN'S TAXES BE INCREASED BY ONE HUNDRED FORTY THREE THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS ($143,500) IN FISCAL YEAR 2016 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION OF AN EXCISE TAX IN THE AMOUNT OF SEVEN AND ONE-HALF PERCENT (7.5%) IN 2016 AND UP TO FIFTEEN PERCENT (15%) THEREAFTER ON THE SALE OR TRANSFER OF MARIJUANA (BOTH MEDICAL AND RETAIL) BY A MARIJUANA CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF SALE OR TRANSFER FROM THE CULTIVATION FACILITY, COMMENCING ON JANUARY 1, 2016; AND IN CONNECTION THEREWITH, SHALL THE FULL PROCEEDS OF SUCH TAX AT SUCH RATE AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE TOWN OF HAYDEN UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Pass 62-38%

LEADVILLE	2A SHALL CITY OF LEADVILLE TAXES BE INCREASED, COMMENCING JANUARY 1, 2018, BY $150,000 ANNUALLY IN THE FIRST FISCAL YEAR ENDING DECEMBER 31, 2018, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY; WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%, AND SHALL ALL REVENUES DERIVED FORM SUCH EXCISE TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTHWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES, OR ANY OTHER LAW?	Pass 61-39%
LOG LANE VILLAGE	2ASHALL THE TOWN OF LOG LANE VILLAGE'S TAXES BE INCREASED BY five hundred thousand ($500,000) ANNUALLY IN FISCAL YEAR 2016 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION OF AN EXCISE TAX IN THE AMOUNT OF ONE AND ONE HALF PERCENT (1.5%) ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF SALE OR TRANSFER FROM THE CULTIVATION FACILITY, COMMENCING ON JANUARY1, 2016; AND IN CONNECTION THEREWITH, SHALL THE FULL PROCEEDS OF SUCH TAX AT SUCH RATE AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVEDREVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE TOWNOF LOG LANE VILLAGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Pass 58-42%
LYONS	2B SHALL TOWN OF LYONS TAXES BE INCREASED, COMMENCING JANUARY 1, 2016, BY $270,000.00 ANNUALLY IN THE FIRST FISCAL YEAR ENDING DECEMBER 31, 2016, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING, A NEW EXCISE TAX OF 5% OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE WHEN RETAIL MARIJUANA IN ANY FORM IS FIRST SOLD OR TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY OR MARIJUANA INFUSED PRODUCTS FACILITY; WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF SUCH TAX DOES NOT EXCEED 10%, AND SHALL ALL REVENUES DERIVED FROM SUCH EXCISE TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES, OR ANY OTHER LAW?	Pass 65-35%

MANITOU SPRINGS	2E SHALL THE CITY OF MANITOU SPRINGS, COLORADO BE PERMITTED TO RETAIN AND EXPEND $ 57,993 IN EXCESS REVENUE RECEIVED BY THE CITY FROM THE CITY'S SPECIAL RETAIL MARIJUANA SALES TAX AS ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 5, 2013, WHICH EXCESS REVENUE WOULD OTHERWISE BE REFUNDED BY A TEMPORARY REDUCTION IN THE CITY'S SPECIAL RETAIL MARIJUANA TAX, PURSUANT TO THE REQUIREMENTS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 84-16%
MILLIKEN (measure to allow failed)	Ballot Issue 2J SHALL THE TOWN OF MILLIKEN'S TAXES BE INCREASED BY $50,000.00 BEGINNING IN 2016 (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX UP TO $10.00 FOR EACH SALES TRANSACTION BY ANY RETAILMARIJUANA STORE, ANY RETAIL MARIJUANA CULTIVATION FACILITY AND ANY RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29 OF THE COLORADO REVISED STATUTES OR ANY OTHER LAW?	Pass 54-46%
MOUNTAIN VIEW	2A SHALL THE TOWN OF MOUNTAIN VIEW RETAIN THE EXCESS REVENUE RECEIVED BY THE TOWN FOR FISCAL YEAR 2014 FROM THE TOWN'S RETAIL MARIJUANA SALES TAX AS ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 5, 2013, AND SHALL SUCH RETAINED TAXES AND ANY INVESTMENT INCOME THEREON CONSTITUTE VOTER-APPROVED REVENUE CHANGES AND BE COLLECTED AND SPENT BY THE TOWN WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 71-29%
PARACHUTE	SHALL THE TOWN OF PARACHUTE'S TAXES BE INCREASED BY $200,000.00 IN THE FIRST FULL FISCAL YEAR, BEGINNING JANUARY 1, 2016, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN EXCISE TAX OF 5% ON UNPROCESSED RETAIL MARIJUANA ON THE DATE THAT IS FIRST SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUNA STORE, RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, OR OTHER RETAIL MARIJUANA CULTIVATION FACILITY, WITH THE RESULTING EXCISE TAX RATE CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE BOARD OF TRUSTEES OF THE TOWN OF PARACHUTE, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED, RETAINED AND SPENT BY THE TOWN AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY APPLICABLE REVENUE OR EXPENDITURE LIMITATION IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Pass 107-57

PUEBLO	QUESTION NO. 2B (EXCISE TAX ON MARIJUANA CULTIVATORS) SHALL THE CITY OF PUEBLO'S TAXES BE INCREASED BY $850,000 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) BEGINNING JANUARY 1, 2016 AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, THROUGH THE ADOPTION OF ORDINANCE NO. 8903 IMPOSING AN EXCISE TAX OF 8.0 % WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE RATE OF THE TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 15.0 % AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED, RETAINED AND SPENT, NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW, AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW AND ALLOWING SUCH REVENUE TO BE EXPENDED AS THE CITY COUNCIL SHALL DETERMINE?	Pass 12750-8737
SOUTH FORK (measure to allow failed)	2. SHALL THE TOWN OF SOUTH FORK TAXES BE INCREASED BY AN ESTIMAED FIFTY THOUSAND DOLLARS ($50,000.00) PER YEAR COMMENCING JANUARY 1, 2016 AND ENDING DECEMBER 31, 2016, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF FIVE PERCENT (5%) OF THE PRICE PAID BY THE PURCHASER OF ANY MARIJUANA PRODUCT EFFECTIVE JANUARY 1, 2016, ON THE AUTHORIZED (UNDER STATE LAW) RETAIL SALE OF MARIJUANA WITHIN THE TOWN OF SOUTH FORK IN ANY FORM, INCLUDING BUT NOT LIMITED TO, MARIJUANA PRODUCTS AS DEFINED BY STATE LAW, WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED TEN PERCENT (10%) AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUE AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 126-82

STERLING	IF BALLOT QUESTION NO. 300 APPROVING THE ALLOWANCE OF THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, AND RETAIL MARIJUANA STORES IN THE CITY OF STERLING, IS PASSED BY THE VOTERS, SHALL CITY OF STERLING TAXES BE INCREASED BY $600,000.00 FOR THE FIRST FULL FISCAL YEAR (2016), AND ANNUALLY THEREAFTER BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 15 PERCENT IN 2016, AND THEREAFTER ON THE CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF TRANSFER FROM THE CULTIVATION FACILITY, AND AN ADDITIONAL SALES AND USE TAX OF 5 PERCENT IN 2016, AND THEREAFTER, WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 10 PERCENT ON RECREATIONAL MARIJUANA AS PROVIDED IN SAID BALLOT QUESTION NO. 300, WITH THE RESULTING REVENUES FROM THE EXCISE AND SALES AND USE TAX TO BE USED TO PAY OR REIMBURSE THE CITY FOR DIRECT AND INDIRECT COSTS INCURRED OR EXPENDED BY THE CITY RELATED TO THE REGULATION OF THE USE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PURPOSES OF THE CITY; AND IN CONNECTION THEREWITH, SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF STERLING UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Fail 1375-1173
Spring 2016		
BLANCA	SHALL THE TOWN OF BLANCA'S TAXES BE INCREASED BY $50,000 IN THE FIRST FULL FISCAL YEAR, BEGINNING MAY 1, 2016, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN EXCISE TAX OF 5.0% OF THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA ON THE DATE THAT IT IS FIRST SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA STORE OR RETAIL MARIJUANA PRODUCTS MANUFACTURER, WITH THE RESULT CAPABLE OF BEING INCREASED, LOWERED OR REVOKED AT THE SOLE DISCRETION OF THE BOARD OF TRUSTEES OF THE TOWN OF BLANCA SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 5.0 %, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT TO FUND THE ENFORCEMENT OF REGULATIONS ON THE MARIJUANA CULTIVATION AND INFUSED PRODUCT INDUSTRY AND FOR THE PURPOSE OF FUNDING MUNICIPAL SERVICES AND OTHER MUNICIPAL PURPOSES, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY OTHER LIMITATIONS PROVIDED BY LAW OR CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 33-8

CRESTONE	SHALL THE TOWN OF CRESTONE 'S TAXES BE INCREASED BY AN ESTIMATED FIFTY THOUSAND DOLLARS ($50,000) PER YEAR COMMENCING APRIL 5, 2016 AND ENDING DECEMBER 31, 2016, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, THROUGH THE ADOPTION OF A RETAIL MARIJUANA STORE TAX AT THE RATE OF 5% ON THE PRICE PAID FOR THE PURCHASE OF RETAIL MARIJUANA AND MARIJUANA INFUSED PRODUCTS, W ITH SUCH REVENUE TO BE USED FOR THE ADDITIONAL COSTS INCURRED FOR ADEQUATE ENFORCEMENT AND ADMINISTRATION OF RETAIL MARIJUANA REGULATIONS AND OTHER GENERAL PURPOSES OF THE TOWN; AND SHALL ALL REVENUES DERIVED FROM SUCH RETAIL MARIJUANA TAX BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE , NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass 30-13
HOTCHKISS (measure to allow failed)	2C BEGINNING JANUARY 1 017, SHALL THE TOWN OF HOTCHKISS TAXES BE INCREASE BY ONE HUNDRED THOUSAND DOLLARS ($100,000.00) IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF TWO PERCENT (2%) ON THE-SALE OF RETAIL AND MEDICAL MARIJUANA AND RETAIL AND MEDICAL MARIJUANA PRODUCTS, WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED TEN PERCENT(10%), ONLY IN THE EVENT THAT SUCH FACILITIES ARE PERMITTED IN THE TOWN OF HOTCHKISS BASED UPON AN AFFIRMATIVE VOTE OF THE QUALIFIED ELECTORS OF THE TOWN OF HOTCHKISS, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT BY THE TOWN OF HOTCHKISS WITHOUT REGARD TO ANY EXPENDITURE, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Pass 185-102

PONCHA SPRINGS (measure to allow failed)	SHALL THE TOWN OF PONCHA SPRINGS TAXES BE INCREASED BY $50,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION AND ASSESSMENT OF AN ADDITIONAL SALES TAX IN THE AMOUNT OF FIVE PERCENT (5%) ON THE SALE OF MEDICAL MARIJUANA, MEDICAL MARIJUANA INFUSED PRODUCTS, RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AND AN EXCISE TAX IN THE AMOUNT OF FIVE PERCENT (5%) ON THE CASH VALUE OF THE TRANSACTION ON THE SALE BY A RETAIL MARIJAUNA PRODUCTS MANUFACTURING FACILITY TO A LICENSED MARIJUANA ESTABLISHMENT OUTSIDE THE TOWN OF PONCHA SPRINGS, AND SHALL ALL REVENUES DERIVED FROM SUCH TAX COLLECTED BE SPENT TO DEFRAY COSTS INCURRED IN REGULATING THE MARIJUANA INDUSTRY, FUNDING SOCIAL, RECREATIONAL, AND EDUCATIONAL PROGRAMS WITHIN THE COMMUNITY AS MAY BE DETERMINED BY THE TOWN INCLUDING SUBSTANCE ABUSE PREVENTION, EDUCATION AND COUNSELING PROGRAMS, AND TO PROMOTE THE GENERAL PURPOSES OF THE TOWN OF PONCHA SPRINGS AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION?	Pass 138-102
SEDGWICK	SHALL TOWN OF SEDGWICK TAXES BE INCREASED BY $500,000 (FIRST FULL FISCAL YEAR INCREASE) AND ANNUALLY THEREAFTER IN SUCH AMOUNTS AS ARE RECEIVED EACH YEAR THROUGH THE IMPOSITION OF AN EXCISE TAX IN THE AMOUNT OF TWO PERCENT (2%) ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY AT THE AVERAGE MARKET RATE AT THE POINT OF SALE OR TRANSFER FROM THE CULTIVATION FACILITY, COMMENCING ON JULY 1, 2016, WHICH IF APPROVED, SHALL REPLACE THE OCCUPATION TAX LEVIED ON SALES OR TRANSFERS OF RETAIL MARIJUANA BY RETAIL MARIJUANA CULTIVATION FACILITIES, AND WITH ALL REVENUES DERIVED FROM SUCH TAX TO BE COLLECTED, RETAINED AND SPENT FOR ANY LAWFUL MUNICIPAL PURPOSE; AND SHALL THE TOWN BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUES DERIVED FROM SUCH EXCISE TAX AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Pass 29-3

SILVER CLIFF (measure to allow failed)	Issue B: SHALL THE TAXES OF THE TOWN OF SILVER CLIFF BE INCREASED BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITONAL SALES TAX OF 10 % ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AND AN EXCISE TAX OF 10 % OF THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA ON THE DATE THAT IT IS FIRST SOLD OR TRANSFERRED FROM A MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA FACILITY OR MARIJUANA PRODUCT MANUFACTURING FACILITY, ONLY IN THE EVENT THAT SUCH FACILITIES ARE PERMITTED IN THE TOWN OF SILVER CLIFF BASED UPON AN AFFIRMATIVE VOTE OF THE QUALIFIED ELECTORS OF THE TOWN OF SILVER CLIFF, WITH THE RESULTING SALES OR EXCISE TAX RATES BEING CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE TOWN OF SILVER CLIFF BOARD OF TRUSTEES, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT, NOTWITHSTANDING ANY OTHER LIMITATIONS PROVIDED BY LAW?	Pass 164-115
Fall 2016		
	SALES TAX	
CENTRAL CITY	Ballot Question 1C: SHALL CITY OF CENTRAL CITY TAXES BE INCREASED BY AN ESTIMATED $130,000 IN 2017 (THE FIRST FULL FISCAL YEAR) AND WHATEVER AMOUNTS MAY BE COLLECTED IN FUTURE YEARS BY ADDING A NEW ARTICLE XI TO CHAPTER 4 OF THE MUNICIPAL CODE OF THE CITY OF CENTRAL CITY TO IMPOSE A TAX OF FIVE PERCENT (5%) OF THE PURCHASE PRICE PAID OR CHARGED FOR SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS IN THE CITY OF CENTRAL CITY IN ADDITION TO THE SALES TAX AND ANY OTHER STATE TAX IMPOSED ON SUCH SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS? AND SHALL ALL REVENUE RECEIVED FROM SUCH TAX INCREASE AND ANY INVESTMENT INTEREST THEREON BE A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS 239 - 172
ENGLEWOOD	BALLOT QUESTION 2B: SHALL CITY OF ENGLEWOOD TAXES BE INCREASED BY $512,500 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 3.5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND ANY LAWFUL GOVERNMENTAL PURPOSE DETERMINED BY THE CITY COUNCIL WITH THE RATE OF TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15% AND THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATIONS PROVIDED BY LAW?	FAIL 6,084 - 6,802
	OCCUPATION TAX	

DINOSAUR	Referred Measure 3B SHALL THE TOWN OF DINOSAUR'S TAXES BE INCREASED BY $40,000.00 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE LEVY OF AN OCCUPATION TAX IN THE AMOUNT OF $5.00 FOR EACH SALES TRANSACTION BY ANY MEDICAL MARIJUANA CENTER, ALSO KNOWN AS A MEDICAL MARIJUANA DISPENSARY, ANY RETAIL MARIJUANA STORE, ANY MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION OPERATION, ANY MEDICAL AND RETAIL MARIJUANA-INFUSED PRODUCTS MANUFACTURER, ANY MEDICAL MARIJUANA CULTIVATION FACILITY, ANY MEDICAL AND RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN THE TOWN OF DINOSAUR, EFFECTIVE JANUARY 1, 2017; AND SHALL ALL REVENUES DERIVED FROM SUCH OCCUPATION TAX BE COLLECTED AND SPENT, AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION, ARTICLE 1 OF TITLE 29, COLORADO REVISED STATUTES OR ANY OTHER LAW? Yes No	PASS 89 - 63
	EXCISE TAX	
DINOSAUR	SHALL THE TOWN OF DINOSAUR'S TAXES BE INCREASED BY $50,000.00 ANNUALLY (FULL FISCAL YEAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE ADOPTION OF A MUNICIPAL EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY AT A RATE NOT TO EXCEED FIVE PERCENT (5%) OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-28.8-101(1). C.R.S. OF THE UNPROCESSED RETAIL MARIJUANA, ALL IN ACCORDANCE WITH SECTION 29-2-114 C.R.S., AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUES AS A VOTER APPROVED REVENUE CHANGE, NOT WITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS 84 - 65

PALISADE	REFERRED MEASURE 2A: SHALL THE TOWN OF PALISADE'S TAXES BE INCREASED BY $300,000 ANNYALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE ADOPTION OF A MUNICIPAL EXCISE TAX ON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY AT A RATE NOT TO EXCEED FIVE PERCENT (5%) OF THE AVERAGE MARKET RATE AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-28.8-101(1), C.R.S. OF THE UNPROCESSED RETAIL MARIJUANA, ALL IN ACCORDANCE WITH SECTION 29-2-114, C.R.S., AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUES AS A VOTER APPROVED REVENUE CHANGE, NOT WITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS 732 - 567
FLORENCE	BALLOT QUESTION 2C: UP TO 5.0% ON UNPROCESSED RETAIL MARIJUANA SHALL CITY OF FLORENCE TAXES BE INCREASED BY $1,200,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY THE CITY LEVYING, COLLECTING AND ENFORCING AN EXCISE TAX, ON UNPROCESSED RETAIL MARIJUANA, UP TO FIVE PERCENT (5.0 %) OF THE AVERAGE MARKET RATE OF UNPROCESSED RETAIL MARIJUANA (AS DETERMINED BY THE COLORADO DEPARTMENT OF REVENUE) ON THE DATE THAT IT IS FIRST SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA STORE, A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY, WITH THE RESULTING REVENUES COLLECTED AND SPENT TO DEFER GENERAL AND CAPITAL IMPROVEMENT PROJECT EXPENSES OF THE CITY, NOTWITHSTANDING ANY LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW? YES NO	PASS 1,045 - 712

NUNN	SHALL THE TOWN OF NUNN TAXES BE INCREASED BY $165,000 ANNUALLY IN 2017, THE FIRST FULL FISCAL YEAR, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER THROUGH THE ADOPTION OF AN EXCISE TAX OF 5% ON THE PRICE RECEIVED FOR THE WHOLESALE SALE OF UNPROCESSED MARIJUANA BY A “MARIJUANA CULTIVATION FACILITY” AS DEFINED BY TOWN OF NUNN ORDINANCE NUMBER 2016-295 WHEN UNPROCESSED MARIJUANA IS SOLD OR TRANSFERRED FROM WITHIN THE CORPORATE LIMITS OF THE TOWN OF NUNN BY A MARIJUANA CULTIVATION FACILITY FOR RESALE, WITH THE TAX REVENUES TO BE USED FOR THE PURPOSE OF FUNDING ADDITIONAL COSTS INCURRED BY THE TOWN OF NUNN, INCLUDING ADDITIONAL FACILITIES, EQUIPMENT, AND PERSONNEL NEEDED, DUE TO OPERATIONS OF MARIJUANA CULTIVATION FACILITIES WITHIN THE TOWN OF NUNN AND FOR THE PURPOSE OF FUNDING THE TOWN OF NUNN’S GENERAL OPERATIONS, INCLUDING PUBLIC SAFETY, MUNICIPAL SERVICES, TRANSPORTATION AND OTHER PUBLIC IMPROVEMENTS, PARK AND RECREATIONAL FACILITIES, POLICE SERVICES, AND ANY OTHER LAWFUL PUBLIC PURPOSE OF THE TOWN OF NUNN; AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTIUTIONS?	PASS 131 - 103
PALMER LAKE	BALLOT QUESTION 300: SHALL THE TOWN OF PALMER LAKE TAXES BE INCREASED BY FIVE HUNDRED THOUSAND DOLLARS ($500,000) IN THE FIRST FISCAL YEAR AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL (RECREATIONAL) MARIJUANA AND RETAIL (RECREATIONAL) PRODUCTS AS DEFINED IN THE COLORADO RETAIL MARIJUANA CODE, WITH THE RATE OF SUCH TAX BEING ALLOWED TO BE DECREASED OR INCREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF THE TAX DOES NOT EXCEED 10%, PROVIDED THAT THE RATE SHALL NOT EXCEED 7% ON OR BEFORE JANUARY1, 2019, WITH THE REVENUES DERIVED FROM SUCH TAX TO BE COLLECTED AND SPENT TO PROMOTE THE GENERAL PURPOSES OF THE TOWN OF PALMER LAKE AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	PASS 867 - 721

PARACHUTE	BALLOT QUESTION 2E: SHALL THE TOWN OF PARACHUTE'S TAXES BE INCREASED BY $500,000.00 IN THE FIRST FISCAL YEAR, BEGINNING JANUARY 1, 2017, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN EXCISE TAX OF 5% ON THE MANUFACTURING OF RETAIL AND MEDICAL MARIJUANA AND THE CULTIVATION OF UNPROCESSED MEDICAL MARIJUANA, WHEN ANY SUCH PRODUCT IS FIRST SOLD OR TRANSFERRED FROM A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY TO A RETAIL MARIJUANA STORE, OTHER RETAIL MARIJANA PRODUCT MANUFACTURING FACILITY, OTHER RETAIL MARIJUANA CULTIVATION FACILITY, OR ANY OTHER PURCHASER OR TRANSFEREE, AND WHEN SUCH PRODUCT IS FIRST SOLD OR TRANSFERRED FROM A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER OR OPTIONAL PREMISES CULTIVATION OPERATION TO A MEDICAL MARIJUANA CENTER, OTHER MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER, OTHER OPTIONAL PREMISES CULTIVATION OPERATION, OR ANY OTHER PURCHASER OR TRANSFEREE, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED, RETAINED AND SPENT BY THE TOWN AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY APPLICABLE REVENUE OR EXPENDITURE LIMITATION IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	PASS 204 -165
Spring 2017		
GLENWOOD SPRINGS	GLENWOOD ISSUE 1: SHALL CITY TAXES BE INCREASED BY $500,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER CITY EXPENSES, WITH THE RATE OF TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15%, AND WITH THE RESULTING TAX REVENUES TO BE COLLECTED BY THE CITY AS A VOTER APPROVED REVENUE OR EXPENDITURE LIMITATION IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	**YES: 1,205** NO: 813

	GLENWOOD ISSUE 2: SHOULD THE CITY OF GLENWOOD SPRINGS'S TAXES BE INCREASED BY $500,000.00, BEGINNING JULY 1, 2017, AND BY SUCH AMOUNTS THAT ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN EXCISE TAX IN THE AMOUNT OF 5% OF THE MARKET RATE OF RETAIL MARIJUANA UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA FROM A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, CULTIVATION FACILITY, OR TESTING FACILITY TO A RETAIL MARIJUANA STORE OR ANOTHER RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, CULTIVATION FACILITY, OR TESTING FACILITY OR ANY OTHER PURCHASER OR TRANSFEREE, WITHIN OR WITHOUT THE CITY OF GLENWOOD SPRINGS; WITH THE MARKET RATE OF MARIJUANA TO EQUAL, IN ANY EVENT, THE AVERAGE MARKET RATE FOR RETAIL MARIJUANA UNDER C.R.S. § 39-28.8-101, ET SEQ., AS THAT CODE SECTION MAY BE AMENDED; WITH THE TAX REVENUES BEING USED TO FUND THE ENFORCEMENT OF REGULATIONS OF THE RETAIL MARIJUANA INDUSTRY, OTHER COSTS RELATED TO ENFORCEMENT OF MARIJUANA LAWS, EDUCATION AND PUBLIC HEALTH PROGRAMS ASSOCIATED WITH MARIJUANA CONSUMPTION INCLUDING PREVENTION OF UNDERAGE CONSUMPTION, AND OTHER CITY EXPENSES, AND WITH THE RESULTING TA REVENUES TO BE COLLECTED BY THE CITY AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY APPLICABLE REVENUE OR EXPENDITURE LIMITATION IMPOSED BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	**YES: 1,260** NO: 764
FALL 2017		
Alamosa	SHALL THE TAXES OF THE CITY OF ALAMOSA BE INCREASED BY $ 300,000 IN THE FIRST FISCAL YEAR, BEGINNING JANUARY 1, 2018, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITIONAL SALES TAX OF 5 % ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, ONLY IN THE EVENT THAT RETAIL MARIJUANA FACILITIES ARE PERMITTED IN THE CITY OF ALAMOSA BASED UPON AN AFFIRMATIVE VOTE OF THE QUALIFIED ELECTORS OF THE CITY OF ALAMOSA UNDER SEPARATE BALLOT QUESTION, WITH THE RESULTING SALES TAX RATES BEING CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE ALAMOSA CITY COUNCIL, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT, NOTWITHSTANDING ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION ANY OTHER LIMITATIONS PROVIDED BY LAW?	Pass Yes: 1,331 No: 828

Berthoud	SHALL THE TOWN OF BERTHOUD TAXES BE INCREASED BY $100,000 .00 OR SUCH GREATER OR LESSER AMOUNT WHICH MAY ACTUALLY BE RECEIVED IN THE CALENDAR YEAR 2018 AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY IN EACH SUBSEQUENT YEAR, BY THE IMPOSITIONS OF A SALES AND EXCISE TAX ON THE RETAIL SALE OF MARIJUANA AND MARIJUANA PRODUCTS (AS SUCH ARE AUTHORIZED BY STATE LAW, WITH THE EXCEPTION OF MEDICAL MARIJUANA AND PRODUCTS RELATED THERETO), COMMENCING JANUARY 1, 2018 OR AT SUCH LATER TIME AS SUCH SALES MAY BE AUTHORIZED BY THE BOARD OF TRUSTEES OR VOTERS OF THE TOWN, AT THE RATE OF SEVEN PERCENT (7%) OF THE PRICE PAID BY THE PURCHASER IN ADDITION TO THE REGULAR MUNICIPAL SALES TAX, WHICH TAX REVENUES SHALL BE EXPENDED TO PROMOTE YOUTH ACTIVITIES AND SERVICES , STREETS & SIDEWALKS, LAW ENFORCEMENT, AND PARKS & RECREATIONAL PURPOSES OF THE TOWN, AND SHALL THE TOWN BE PERMITTED TO COLLECT, RETAIN AND SPEND THE REVENUES FROM SUCH TAX, INCLUDING ALL INTEREST DERIVED THEREFROM, WITHOUT REGARD TO THE REVENUE RAISING, DEBT LIMITATION OR OTHER RESTRICTIONS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?	Pass Yes: 1,149 No: 518

Commerce City	SHALL THE CITY OF COMMERCE CITY'S TAXES BE INCREASED BY $900,000.00 IN THE FIRST FULL FISCAL YEAR (BEGINNING JANUARY 1, 2018), AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, IMPOSING AN ADDITIONAL FIVE PERCENT (5%) EXCISE TAX ON THE WHOLESALE TRANSFER OF MARIJUANA AND MARIJUANA PRODUCTS FROM OR TO A MARIJUANA BUSINESS IN THE CITY, INCLUDING TRANSFERS BY THE SAME BUSINESS BETWEEN LICENSES, ASSESSED ON THE AVERAGE MARKET RATE OF UNPROCESSED MARIJUANA NOT FOR RETAIL SALE (FOR MARIJUANA) AND ON THE GREATER OF THE PRICE PAID BY THE PURCHASER OR THE CASH VALUE OF MARIJUANA PRODUCTS (FOR MARIJUANA PRODUCTS), WITH THE RATE OF SUCH EXCISE TAX BEING ALLOWED TO INCREASE OR DECREASE BY ORDINANCE APPROVED BY THE CITY COUNCIL WITHOUT FURTHER VOTER APPROVAL BUT NOT TO A RATE OF MORE THAN TEN PERCENT (10%); AND SHALL THE VOTERS' AUTHORIZATION FOR AN EXCISE TAX APPROVED IN 2015 BE REPEALED; AND SHALL THE REVENUES FROM SUCH TAXES, PLUS INTEREST EARNED THEREON, BE COLLECTED, RETAINED, AND SPENT FOR PURPOSES OF PUBLIC SAFETY AND AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO ANY AND ALL LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND ANY OTHER LAW WHICH PURPORT TO LIMIT COMMERCE CITY'S REVENUE OR EXPENDITURES?	Pass Yes: 3,610 No: 3,184
De Beque	SHALL THE TOWN OF DE BEQUE'S TAXES BE INCREASED BY $500,000.00 (FIRST FULL FISCAL YEAR INCREASE), AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A NEW SALES TAX ON THE SALE OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA-INFUSED PRODUCTS COMMENCING JANUARY 1, 2018, AT THE RATE OF FIVE PERCENT (5%) OF THE PURCHASE PRICE OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA-INFUSED PRODUCTS WITHIN THE TOWN, WHICH NEW SALES TAX SHALL BE IN ADDITION TO THE MUNICIPAL SALES TAX ON SUCH SALES, AND SHALL ALL SUCH TAX REVENUES BE COLLECTED, RETAINED, AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN THE COLORADO CONSTITUTION OR OTHER APPLICABLE LAW?	Pass Yes: 76 No: 47

Dinosaur	Shall the Town of Dinosaur's taxes be increased by $200,000.00 annually (first full fiscal year increase) and by whatever additional amounts are raised annually thereafter, by imposing a tax of 5% commencing January 1, 2018 on the sale of retail marijuana and retail marijuana products and shall the Town of Dinosaur's occupation tax on retail marijuana stores set forth in Ordinance No. 5-17, Series of 2017, be repealed; and shall the town be authorized to collect and spend such revenues as a voter approved revenue change, notwithstanding any revenue or expenditure limitation contained in Article X, Section 20 of the Colorado Constitution, or any other law as it currently exists or as it may be amended in the future and without limiting in any year the amount of other revenues that may be collected and spent by the Town of Dinosaur?	Pass Yes: 53 No: 26
Eagle	SHALL THE TOWN OF EAGLE'S TAXES BE INCREASED BY $200,000.00 ANNUALLY (FIRST FULL FISCAL YEAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING A TAX OF 2.5% COMMENCING JANUARY 1, 2018 ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND AN EXCISE TAX OF 2.5% COMMENCING JANUARY 1, 2018 ON THE AVERAGE MARKET RATE OR OTHER CALCULATION METHOD ALLOWED BY LAW OF UNPROCESSED RETAIL MARIJUANA UPON THE FIRST SALE OR TRANSFER BY A RETAIL MARIJUANA CULTIVATION FACILITY, WITH BOTH RATES BEING ALLOWED TO INCREASE .5% EACH YEAR THEREAFTER WITHOUT FURTHER VOTER APPROVAL SO LONG AS EACH RATE DOES NOT EXCEED 5%; AND SHALL THE TOWN OF EAGLE'S OCCUPATION TAX ON RETAIL MARIJUANA BUSINESSES SET FORTH IN CHAPTER 5.16 OF THE EAGLE MUNICIPAL CODE BE REPEALED; AND SHALL THE TOWN BE AUTHORIZED TO COLLECT AND SPEND SUCH REVENUES AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR ANY OTHER LAW AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE TOWN OF EAGLE?	Pass Yes: 1,096 No: 710

Federal Heights	Shall the City of Federal Heights taxes be increased by $750,000.00 annually beginning in 2018 (first fiscal year increase) and by whatever additional amounts are raised annually thereafter by imposing, effective January 1, 2018, a new excise tax upon the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility within the City, as legalized by Article XVIII, Section 16 of the Colorado Constitution, at the rate of 5% (which rate may be adjusted from time to time by the city council without further voter approval so long as such rate doesn't exceed 10%), with such excise tax to be in addition to the application of the City's sales tax, and the revenue received by the city from the collection of excise tac to be used to pay or reimburse the city for direct and indirect costs incurred or expended by the City related to the regulation of the use of retail marijuana and retail marijuana products, to support local drug education programs, prevent underage consumption of retail marijuana and retail marijuana products, and for other general purposes of the city, and with the revenue from such tax and any earnings from the investment thereof to be collected and spent as a voter approved revenue change under Article X Section 20 of the Colorado Constitution?	Pass Yes: 584 No: 429
Foxfield	SHALL TOWN OF FOXFIELD TAXES BE INCREASED BY FOUR HUNDRED THOUSAND DOLLARS ($400,000) ANNUALLY IN THE FIRST FISCAL YEAR (2018), AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF 5% ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND GENERAL GOVERNMENT EXPENSES AS DETERMINED BY THE BOARD OF TRUSTEES, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?	Fail Yes: 152 No: 208

Log Lane Village	Shall taxes of the Town of Log Lane Village be increased by an estimated $20,000.00 in the first fiscal year, beginning January 1, 2018, and by such amounts that are raised annually thereafter, by imposing an additional excise tax of 3.5% of the average market rate on the sale or transfer of unprocessed retail marijuana by a duly licensed retail marijuana cultivation facility within the Town of Log Lane Village, for a total excise of 5% on such sales and transfers of the average market rate, with the rate of such excise tax being allowed to be decreased or increased without further voter approval so long a the rate of the tax does not exceed 5% , and with the resulting excise tax revenue being allowed to be collected and spent by the City without regard to any expenditure, revenue raising or other limitation contained in article X, section 20 of the Colorado Constitution or any other law?	Pass Yes: 58 No: 53
Longmont	SHALL CITY OF LONGMONT TAXES BE INCREASED $1.3 MILLION ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN ADDITIONAL SALES TAX OF 3.0 PERCENT, WHICH IS AN INCREASE OF THIRTY CENTS ON EACH TEN DOLLAR PURCHASE, BEGINNING JANUARY 1, 2018, ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS AS PROVIDED IN ORDINANCE 0-2017-47, WITH THE RATE OF TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 15 PERCENT, AND WITH PROCEEDS REPRESENTING 1.5 PERCENT OF SUCH SALES OR 15 CENTS ON EACH TEN DOLLAR PURCHASE USED EXCLUSIVELY FOR AFFORDABLE HOUSING PROGRAMS AND SERVICES; SHALL THE REVENUES FROM SUCH TAX AND ANY INVESTMENT INCOME EARNED FROM SUCH REVENUES BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION; AND SHALL ORDINANCE 0-2017-47 BE APPROVED?	Pass Yes: 15,607 No: 9,087

Monte Vista	Shall the taxes of the City of Monte Vista be increased by an estimated $500,000 in the first fiscal year, beginning January 1, 2018. and by such amounts as are raised annually thereafter, by imposing an excise tax in the amount of 18% of the amount paid by the purchaser on any first transfer of medical or retail marijuana from a cultivation facility, medical marijuana enter, or medical marijuana optional premises cultivation operations, an excise tax in the amount of 18% of the amount paid by the purchaser on the first transfer of medical or retail marijuana product from a medical marijuana-infused products manufacturer or a marijuana products manufacturer, and an additional sales tax of 18% on the sales of marijuana and marijuana products, both medical and retail, with 1% of said tax revenue generated specifically designated for the monte vista police department to upgrade equipment and provide for personnel, and 1% of said revenue generated specifically designated for the Monte Vista Capital Improvement Fund, only in the event that marijuana establishments are permitted in the city of Monte Vista based upon an affirmative vote of the qualified electors of the City of Monte Vista, with the resulting sales tax rates being capable of being lowered or revoked in the sole discretion of the Montel Vista City Council, with the resulting tax revenues allowed to be collected and spent, notwithstanding any expenditure, revenue raising, or other limitation contained in Article X, 20 of the Colorado Constitution or any other limitations provided by law?	Pass Yes: 533 No: 429
Rocky Ford	Shall the registered electors of Rocky Ford Approve a sales tax of 6% on the sale of retail marijuana and retail marijuana products, allow the city council of Rocky Ford to increase or decrease the rate of such tax without further voter approval so long as the rate of the tax does not exceed 8%, and all revenue from which will be collected and spent by the City of Rocky Ford.	Pass Yes: 614 No: 250

Sheridan	CITY OF SHERIDAN RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS EXCISE TAX SHALL THE CITY OF SHERIDAN TAXES BE INCREASED BY $1,710,000.00 ANNUALLY BEGINNING IN 2018 (FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2018, A NEW EXCISE TAX UPON THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY WITHIN THE CITY AND UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN THE CITY, ALL AS LEGALIZED BY ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, AT THE RATE OF FIVE PERCENT (WHICH RATE MAY BE ADJUSTED FROM TIME TO TIME BY THE CITY COUNCIL ON EITHER THE FIRST SALE OR TRANSFER OF UNPROCESSED RETAIL MARIJUANA BY A RETAIL MARIJUANA CULTIVATION FACILITY OR UPON THE SALE OR TRANSFER OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS OR UPON Born SUCH SALES OR TRANSFERS WITHOUT FURTHER VOTER APPROVAL SO LONG AS SUCH RATE DOES NOT EXCEED TEN PERCENT), WITH SUCH EXCISE TAX TO BE IN ADDITION TO THE APPLICATION OF THE CITY'S SALES TAX, AND THE REVENUE RECEIVED BY THE CITY FROM THE COLLECTION OF THE EXCISE TAX TO BE USED TO PAY OR REIMBURSE THE CITY FOR DIRECT AND INDIRECT PUBLIC SAFETY COSTS INCURRED OR EXPENDED BY THE CITY RELATED TO THE REGULATION OF THE USE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND FOR OTHER GENERAL PUBLIC SAFETY PURPOSES OF THE CITY, AND WITH THE REVENUE FROM SUCH TAX AND ANY EARNINGS FROM THE INVESTMENT THEREOF TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION?	Pass Yes: 511 No: 329

Walsenburg	SHALL CITY OF WALSENBURG TAXES BE INCREASED BY $75,000 IN 2018, THE FIRST FULL FISCAL YEAR OF SUCH TAX INCREASE, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY COLLECTING, ADMINISTERING, ENFORCING AND SPENDING AS A VOTER APPROVED REVENUE CHANGE UNDER COLO. CONST. ART. X § 20, A MUNICIPAL EXCISE TAX AT THE RATE OF FIVE-PERCENT (5.0%) OF THE AVERAGE MARKET RATE OF THE UNPROCESSED RETAIL MARIJUANA, AS DETERMINED BY THE DEPARTMENT OF REVENUE, AT THE TIME WHEN THE RETAIL MARIJUANA CULTIVATION FACILITY FIRST SELLS OR TRANSFERS UNPROCESSED RETAIL MARIJUANA FROM THE RETAIL MARIJUANA CULTIVATION FACILITY TO A RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITY, A RETAIL MARIJUANA STORE, OR ANOTHER RETAIL MARIJUANA CULTIVATION FACILITY PURSUANT TO C.R.S. §29-2-114(2) AS AMENDED; AND, SHALL THE EXCISE TAX, NET OF THE COST OF COLLECTING, ADMINISTERING AND ENFORCING THE TAX, BE PLACED IN THE GENERAL FUND AND RESTRICTED TO THE FOLLOWING PURPOSES: MAKING UP ANY NET LOSS BETWEEN OPERATING REVENUES AND OPERATING EXPENSES OF THE WILD WATERS POOL, CITY PARKS' MAINTENANCE AND CONSTRUCTION, CODE ENFORCEMENT COSTS, AND YOUTH RELATED ACTIVITIES.	Pass Yes: 507 No: 419

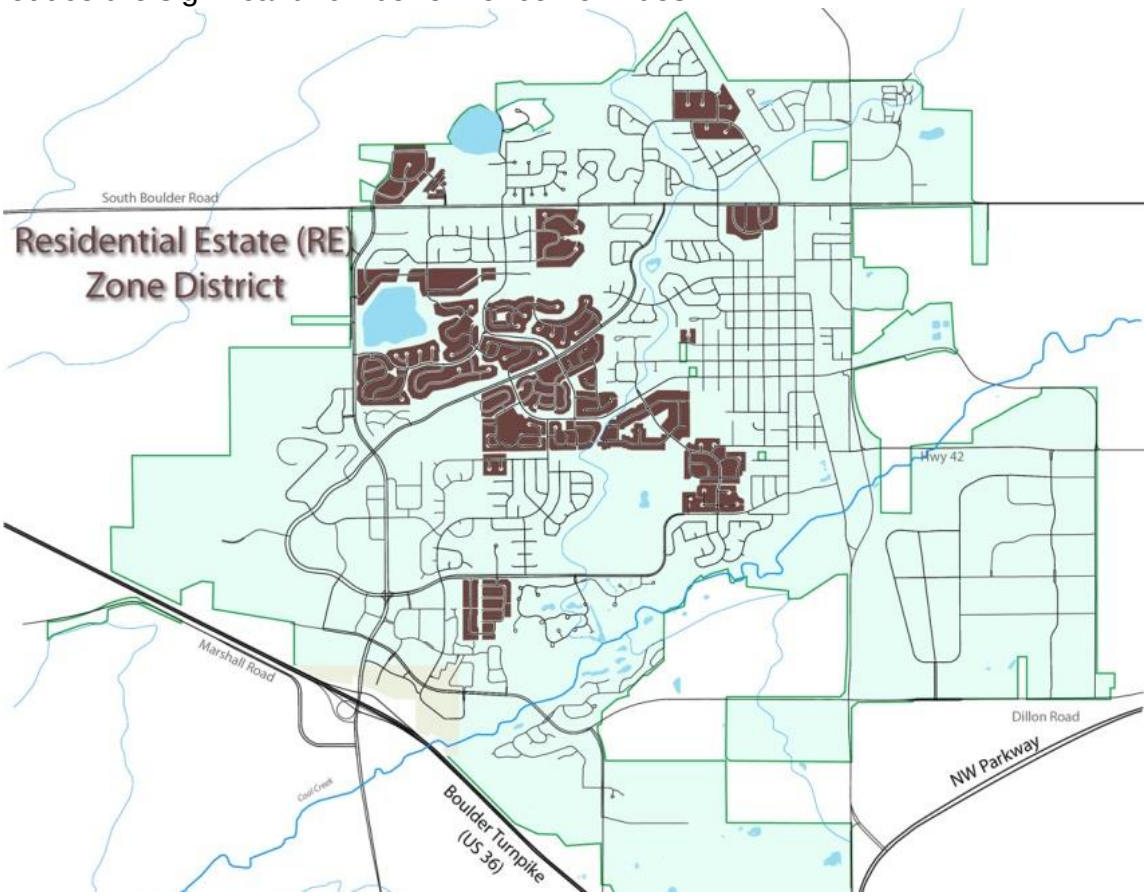
CITY COUNCIL COMMUNICATION
AGENDA ITEM 8D

SUBJECT: **ORDINANCE NO. 1770, SERIES 2019 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE REGARDING LOT COVERAGE STANDARDS FOR THE RESIDENTIAL ESTATE ZONE DISTRICT – 1ST READING, SET PUBLIC HEARING 2/5/18**

DATE: **JANUARY 8, 2019**

PRESENTED BY: **LISA RITCHIE, PLANNING & BUILDING SAFETY DEPARTMENT**

SUMMARY:
The 2018 City Council Work Plan included a review of Residential Estate (RE) Zone District standards related to lot coverage. Following a discussion with Planning Commission on May 10, 2018, a Study Session with City Council on July 10, 2018, and public outreach, staff prepared a draft ordinance with two options for consideration by Planning Commission on December 13, 2018 for amendments to the LMC regarding the RE lot coverage standard. The attached ordinance reflects the recommendation by Planning Commission for adjustments to the lot coverage standard with the intent to reduce the significant number of nonconformities.

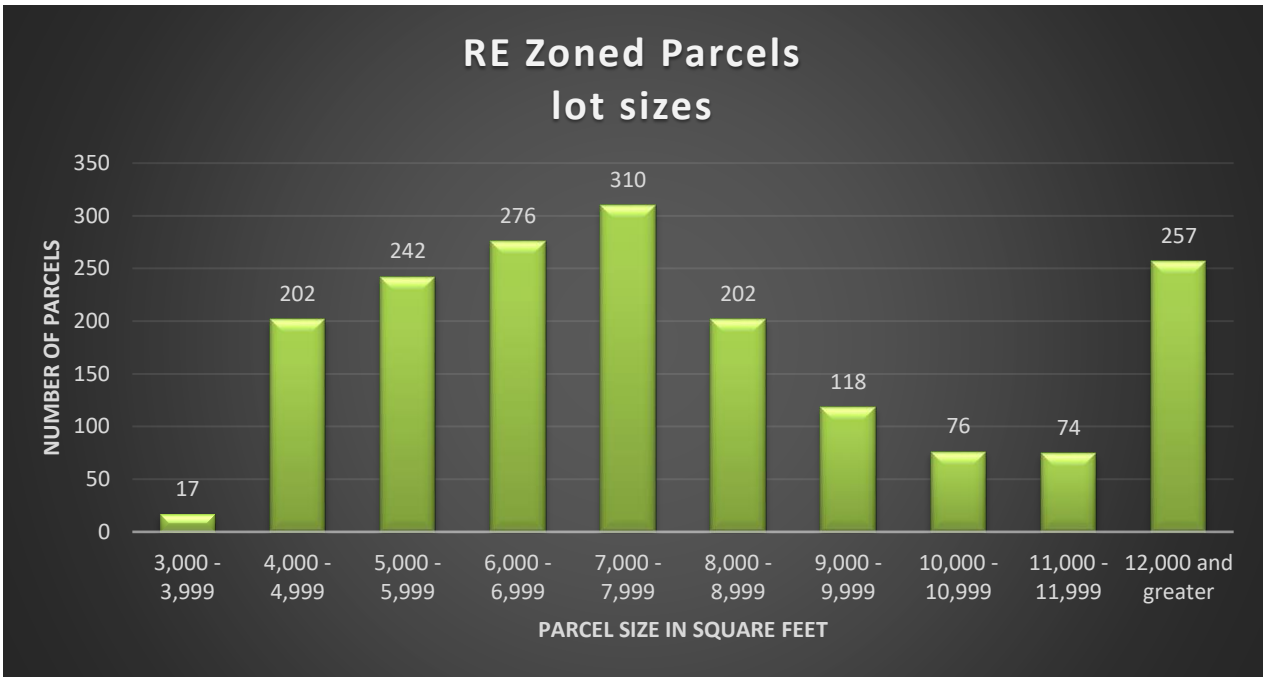


BACKGROUND:
Section 17.12.040 of the LMC establishes the yard and bulk standards for each zone district. The RE Zone District standards require a minimum lot size of 12,000 square feet and a maximum lot coverage of 20%, along with other standards such as setbacks and height. The RE Zone District has been in place with the same yard and bulk standards since at least 1976. Ordinance 1147, Series 1994 prohibits the City from rezoning properties from to RE, when the City updated its residential zone district standards.

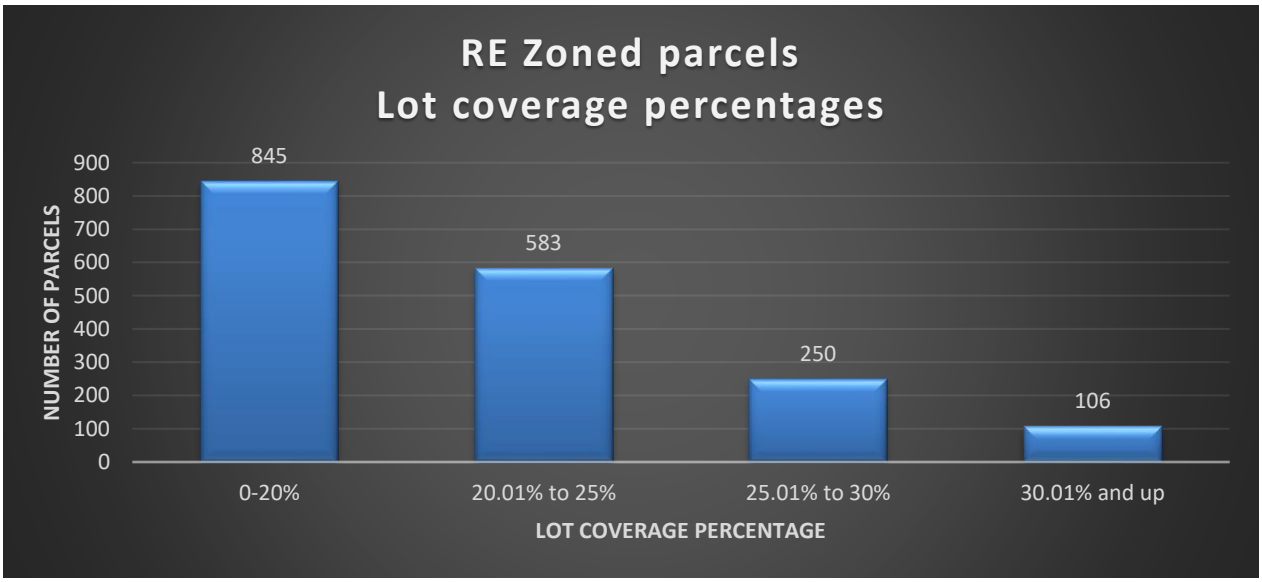
There are 27 subdivisions, along with a handful of replats and smaller subdivisions, with properties zoned RE. The City platted these areas between 1959 (Scenic Heights) and 1995 (Centennial II). There are approximately 1,785 residential properties with RE zoning. There are three platted subdivisions that do not have accompanying PUDs, including Louisville North, Ridgeview and Continental Estates. These three subdivisions generally meet the minimum lot size standard. However, as the City approved newer subdivisions with accompanying PUDs, the City also approved plats with smaller lot sizes than is supported by the underlying zoning.

Lot size affects development on a lot primarily through the maximum lot coverage standard. The RE zone district established a maximum lot coverage percentage of 20%, and most PUDs are silent on this standard. When a PUD is silent on a standard, the standard in the LMC applies. In 1996, the City amended Sec. 17.28.020 of the LMC to require that yard and bulk standards apply if the PUD is silent and the PUD does not specifically waive or modify the standard. Records indicate staff began to consistently apply this code provision in 2012. This resulted in a large increase in applications for variances to the RE lot coverage standard.

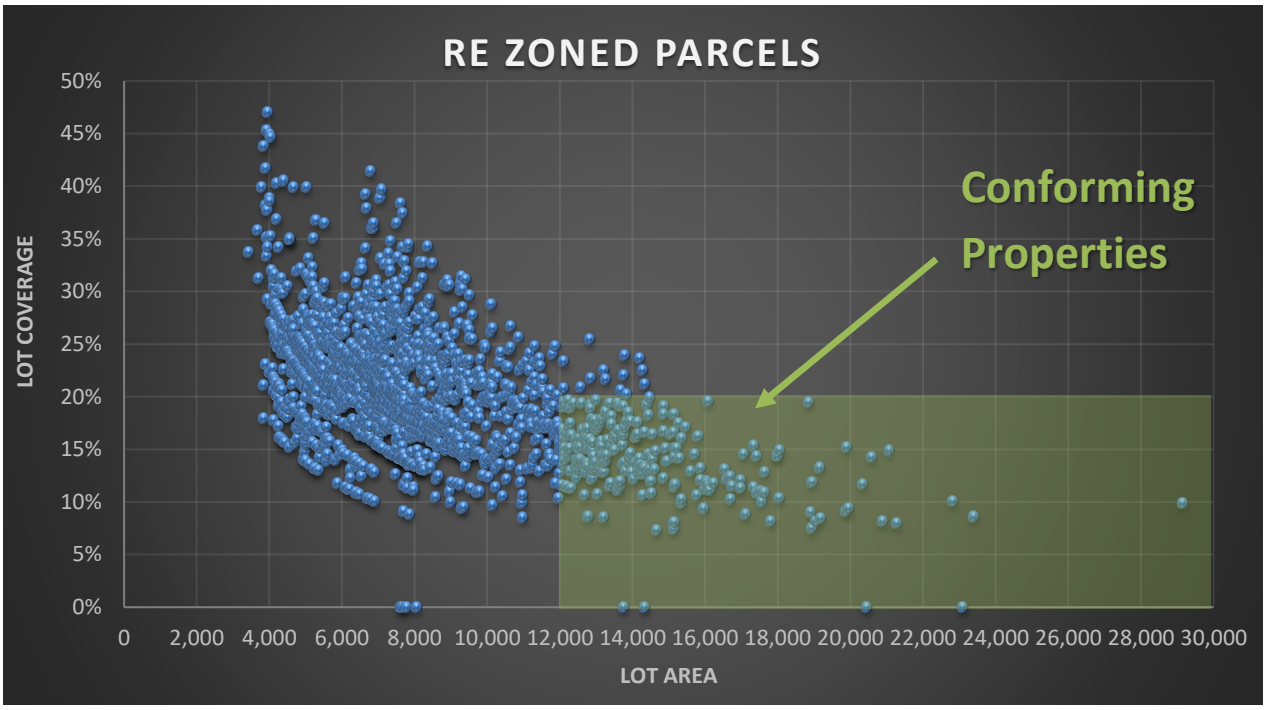
When analyzing existing conditions for lot size and lot coverage, a substantial portion of RE properties do not comply. According to County Assessor data, of the 1,785 properties with RE zoning, only 257 (14%) comply with minimum the lot area requirement of 12,000 sq. ft. and only 845 (47%) comply the maximum lot coverage of 20%. *The County Assessor data does not include decks, which would increase the non-conformity rate for maximum lot coverage.* Maps reflecting this data are also included as attachments.



Lot sizes per Boulder County Assessor GIS data, may vary from actual platted lot sizes.



Lot coverages per Boulder County Assessor Main Floor and Garage square footage data, and does not include decks, patios, porches, etc. Staff assumes actual lot coverage percentages may be higher when including these areas.



In 2014, the City amended LMC to allow administrative variances for lot coverages up to 30% for properties zoned RE, with a PUD and a lot size of 8,000 square feet or less. Staff has processed 52 RE lot coverage variance applications since 2012. Twenty-eight of these were administrative applications for lots 8,000 square feet or less, and the Board of Adjustment considered twenty-four. Staff and the Board of Adjustment have approved all but one request. The approved lot coverage variances range from 21% to 34%. Some feel that the variance processes are unnecessarily burdensome and costly to residents. A table detailing each request is included as an attachment.

The 2013 Comprehensive Plan recommended the development of neighborhood plans, which, among other objectives, were to identify solutions to address this mismatch in zoning standards vs actual lot size and coverages. However, as the City has not moved forward with the neighborhood plan initiative, staff proposes to amend the code to address this particular issue.

PREVIOUS DISCUSSIONS AND PUBLIC OUTREACH:
Staff brought this issue to Planning Commission as a discussion item on May 10, 2018. Planning Commission was receptive to considering a code amendment and indicated that any amendment should have minimal impacts to neighborhood character and that reducing non-conformities should not be the primary goal. There was also discussion around non-traditional lot coverage regulations, such as allowing a certain percentage or square feet more than what is existing, or a ratio, rather than a maximum lot coverage percentage. The minutes from this discussion are included as an attachment.

Following the Planning Commission discussion, staff brought this issue to City Council during a Study Session on July 10, 2018. City Council expresses support for amendments, and encouraged a thoughtful public process to understand how residents perceive this issue and what opinions they held. Minutes from this Study Session are included as an attachment.

On August 29, 2018, staff held a public open house for residents in order for staff to present the issue and to allow for questions and discussion by the public. Prior to holding the open house, staff mailed notice to all properties zone RE and all properties within 500 feet. Additionally, staff developed a project page on the EngageLouisvilleCO.org website with detailed information for residents to learn more if they were unable to attend the open house. Roughly, 50 people attended the open house, and following the presentation by staff, most of those in attendance expressed support for an amendment to the code. Twenty-five attendees completed comment cards and staff received a handful of comments via email and the Engage Louisville site. These are included as attachments. Additionally, staff had numerous residents make phone calls and drop by City Hall to discuss the amendment and ask questions. Generally, these resulted in indications of support, while noting a desire to respect and preserve neighborhood character. Indications of support were not unanimous; however, the strong majority of residents that provided feedback desired an amendment to the code. The sign-in sheets, comment cards, emails and EngageLouisvilleCO.org report are included as attachments.

DISCUSSION:

Staff proposed two options to Planning Commission on December 13, 2018, and the draft ordinance includes the option they recommended for approval. The ordinance amends the RE maximum lot coverages to graduated allowances based on lot size, similar to the Old Town Overlay. Staff is not recommending the rezoning of any property to address this issue. Staff also acknowledges this will not address every non-conformity.

The draft ordinance is intended for consistent application citywide, and for properties both within and not within a PUD overlay. Public feedback did not indicate varying support in different parts of the City or neighborhoods. Staff reviewed the existing PUDs and notes that this will not apply to the Centennial II PUD, as that PUD included a maximum lot coverage standard of 30%, so, consistent with Sec. 17.28.020, that standard will continue to apply to those properties.

The option that is included in the draft ordinance follows:

The maximum lot coverage for the R-E zone district shall be as follows:

a. For a lot having a lot area of less than 5,000 square feet: 35 percent
b. For a lot having a lot area of 5,000 to 9,000 square feet: 30 percent, or 1,750 sf whichever is greater
c. For a lot having a lot area of 9,001 to 12,000 square feet: 25 percent, or 2,700 sf whichever is greater
d. For a lot having a lot area of 12,000 square feet or greater: 20 percent, or 3,000 sf whichever is greater

Staff evaluated multiple options for consideration that alleviate the conformity to differing degrees and balance existing conditions related to neighborhood character. Staff notes that in the presented option, the 20% lot coverage will not apply until the lot size reaches 15,000 sf. The following table summarizes the resulting non-conformities from the recommended option:

Lot Size (sq. ft.)	Lot Coverage	Non-conforming	Conforming	% Conforming
Less than 5,000	35%	19	200	91.3%
5,000 to 9,000	30% or up to 1,750 sf	24	1,014	97.7%
9,001 to 12,000	25% or up to 2,700 sf	9	261	96.7%
12,000 or greater	20% or up to 3,000 sf	10	250	96.2%
Total		**62**	**1,725**	**96.5%**

PLANNING COMMISSION ACTION:
Planning Commission held a public hearing on December 13, 2018 to consider the ordinance and recommended approval of the draft ordinance for the amendment above with a 7-0 vote.

FISCAL IMPACT:
Staff does not anticipate a significant fiscal impact to the City. Staff anticipates fewer variance applications, but the associated fees cover the costs for processing the variance applications.

RECOMMENDATION:
Staff recommends City Council approve Ordinance 1770, Series 2019 to amend the Louisville Municipal Code regarding Residential Estate zone district lot coverage standards on first reading, send the ordinance out for publication and set the public hearing for February 5, 2019.

ATTACHMENTS:

1. Ordinance 1770, Series 2019
2. Variance cases for RE lot coverage standards
3. Maps reflecting lot coverages and lot sizes
4. Planning Commission minutes, May 10, 2018
5. City Council minutes, July 10, 2018
6. Public meeting materials and public feedback
7. Engage Louisville activity report
8. Planning Commission minutes, December 13, 2018

ORDINANCE NO. 1770
SERIES 2019

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE REGARDING LOT COVERAGE STANDARDS FOR THE RESIDENTIAL ESTATE ZONE DISTRICT

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, the City has previously adopted Residential Estate yard and bulk standards in Title 17 of the LMC that sets forth a 20 percent lot coverage maximum; and

WHEREAS, following the original construction of residential structures in many of the Residential Estate zone district neighborhoods in accordance with approved Planned Unit Developments, the City amended Title 17 of the LMC to require that underlying zoning district standards apply when that standard is not set by the approval of a Planned Unit Development, leading to a majority of Residential Estate zoned properties becoming non-conforming to the yard and bulk standards by exceeding the maximum lot coverage; and

WHEREAS, the City Council desires to amend the Residential Estate zone district lot coverage maximum to reduce the number of non-conforming properties and allow reasonable building additions and improvements to properties that more accurately reflect the intent of the original Planned Unit Developments and the desired neighborhood character.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Row 4 of the table and footnotes in Section 17.12.040 of the Louisville Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 17.12.040 – Yard and bulk requirements.

		Zoning Districts and Requirements																	
	Yard and Bulk Item	A	A-O	B-O	R-RR	SF-R	SF-E	R-R	R-E	R-L	SF-LD	SF-MD	SF-HD	R-M	R-H	C-N	C-C	C-B	I
4.	Maximum lot coverage	20	30	40	10	10	15	20	~~20~~	30	20	20	25	35	40	40	40 [2]	40	50

	(% of lot area)								See Footnote 11										

Footnotes

11. The maximum lot coverage for the R-E zone district shall be as follows:

a. For a lot having a lot area of less than 5,000 square feet: 35 percent
b. For a lot having a lot area of 5,000 to 9,000 square feet: 30 percent, or 1,750 sf whichever is greater
c. For a lot having a lot area of 9,001 to 12,000 square feet: 25 percent, or 2,700 sf whichever is greater
d. For a lot having a lot area of 12,001 square feet or greater: 20 percent, or 3,000 sf whichever is greater

Section 2. Subsection E of Section 17.52.050 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 17.52.050 – Zoning administrator – Powers and duties

E. The zoning administrator is permitted to grant an administrative variance for minor impact variances to title 17 standards listed in subsection 17.52.050.E.1 based on the criteria listed in subsection 17.52.050.E.2 and consistent with the procedures listed in subsection 17.52.050.E.3.

1. Minor impact variances to title 17 standards eligible for administrative review by the zoning administrator include:

i. Up to ten percent deviation of measurable yard and bulk requirements, including:
a. Minimum lot area;
b. Minimum lot width;
c. Maximum lot coverage;
d. Maximum floor area;
e. Primary and accessory building setbacks;
f. Primary and accessory building heights;
g. Minimum building coverage;
h. Street frontages;
i. Parking ratios;
j. Vehicle access spacing requirements;

k. Fence and wall heights; and
l. Other measurable standards as interpreted by the zoning administrator.

ii. ~~Deviation to allow up to 30 percent maximum lot coverage for lots of less than 8,000 square feet that are located within a Planned Unit Development with Residential-Estate (R-E) underlying zoning and without documented yard and bulk standards.~~

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 8th day of January, 2019.

_____
Robert P. Muckle, Mayor

ATTEST:

_____
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

_____
Kelly, P.C., City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this 5th day of February, 2019.

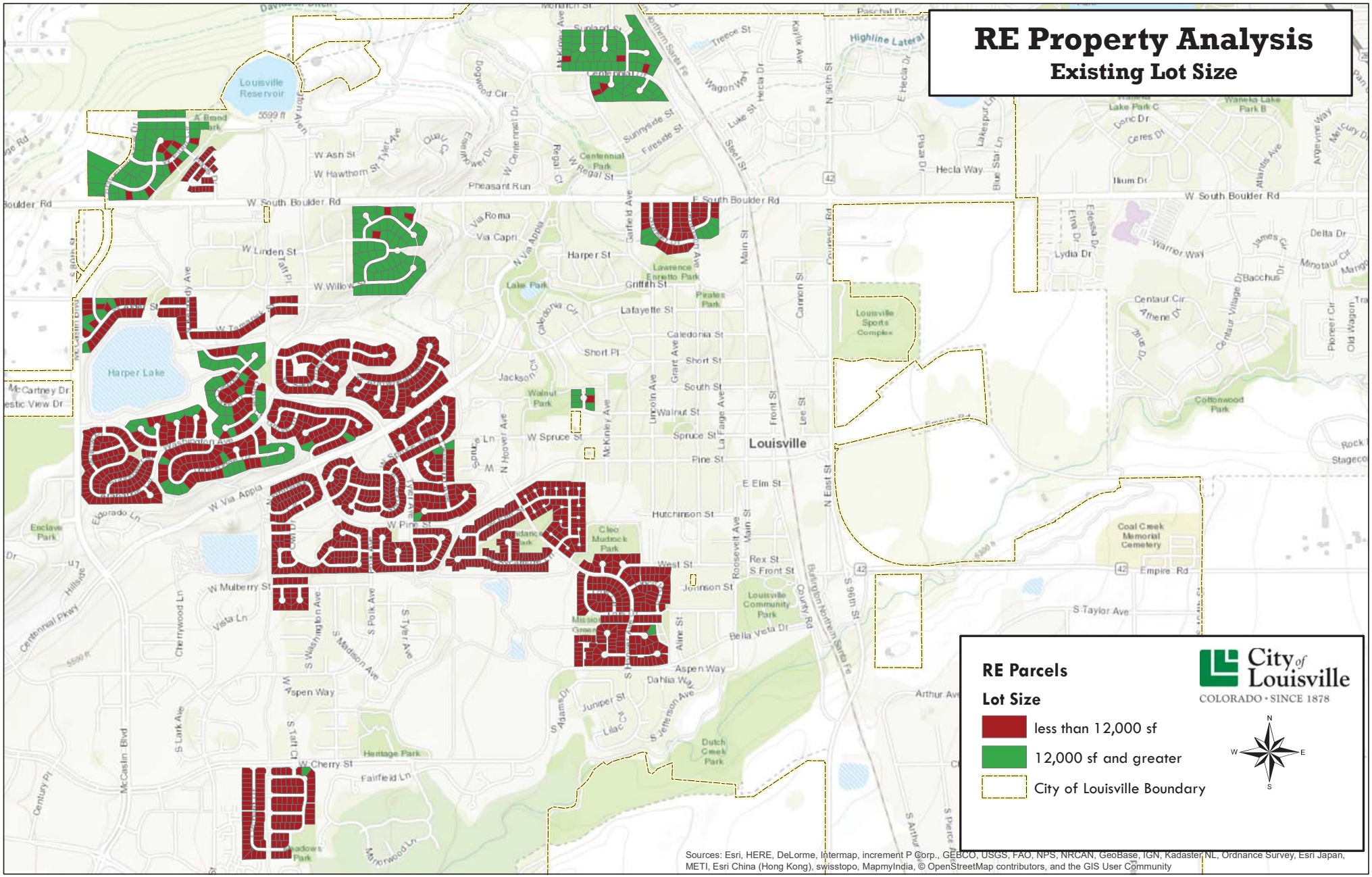
_____
Robert P. Muckle, Mayor

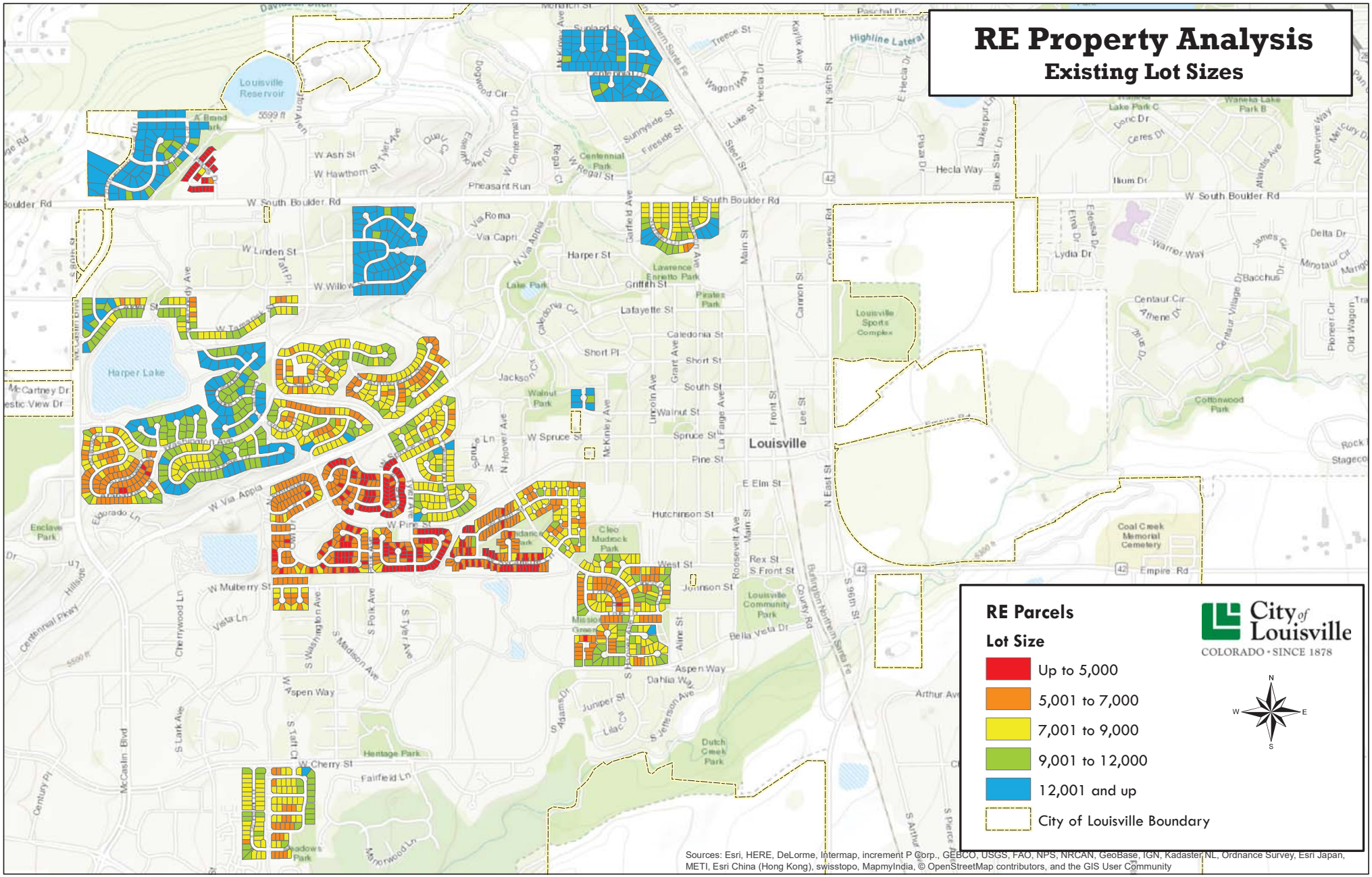
ATTEST:

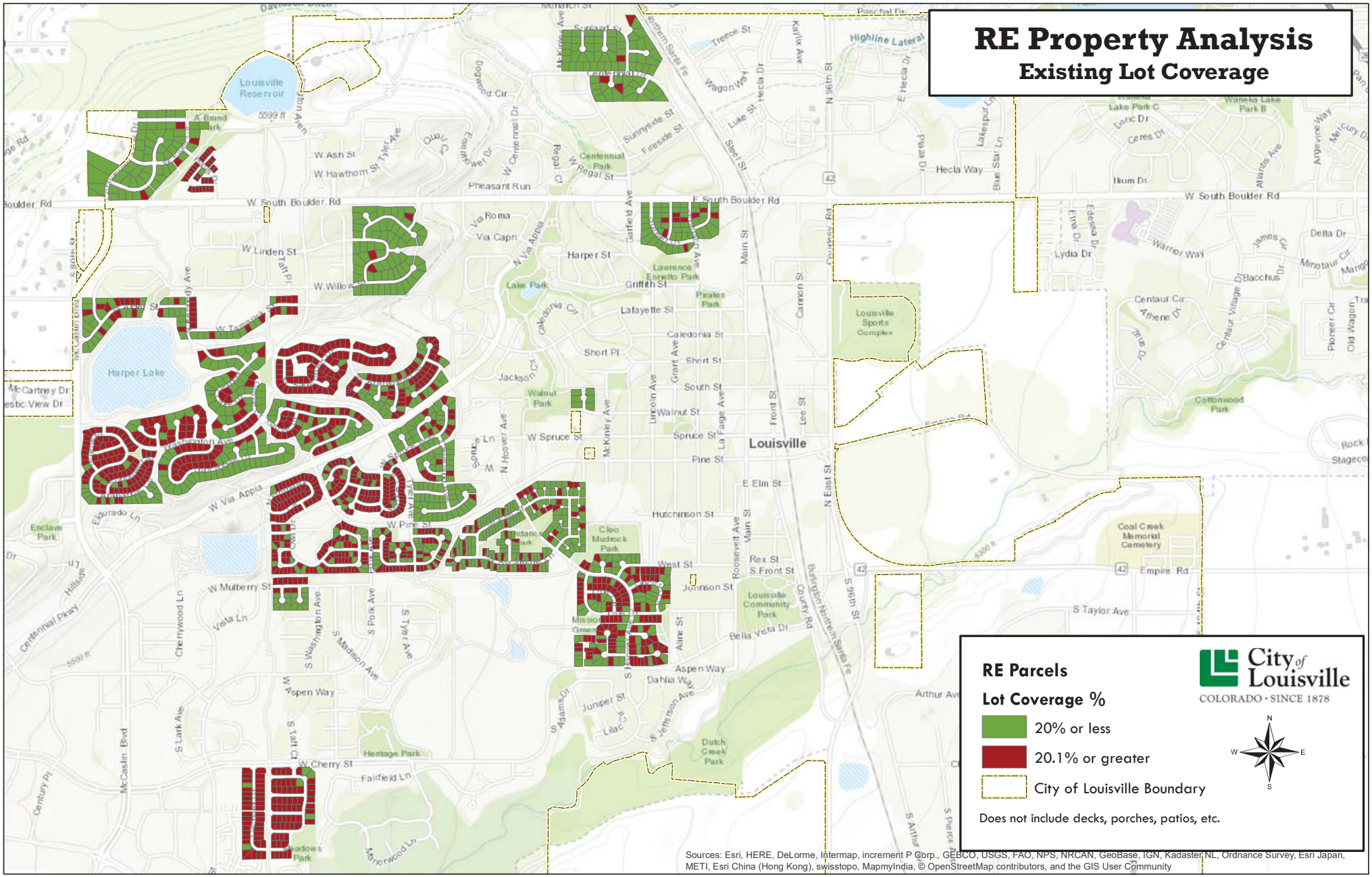
_____
Meredyth Muth, City Clerk

Year	Subdivision	Project Address	Case Status	Request	Type
2012	Pine Street Park; Lot 90	832 Owl Dr	Approved	23% to 27% - RE	BOA
2012	Sundance; Lot 37	456 W. Sycamore	Approved	18% to 25% - RE	BOA
2013	Pine Street Park; Lot 35	667 Ponderosa	Approved	31% to 32% - RE	BOA
2013	Centennial Valley 3; Lot 6, Block 4	494 Lois Dr	Approved	22% to 33% - RE	BOA
2013	Scenic Heights; Lot 6, Block 4	505 Sunset Dr	Approved	17% to 24% - RE	BOA
2014	Centennial Valley; Lot 7, Block 16	112 S. Carter Ct	Approved	30% to 34% - RE	BOA
2014	Sundance 2 Replat; Lot 15	475 Fillmore Cr	Approved	23% to 27% - RE	BOA
2014	Saratoga; Lot 59	519 Adams Ave	Approved	17% to 21% - RE	BOA
2014	Centennial 8; Lot76	963 Sunflower St	Approved	24% to 27% - RE	BOA
2014	Centennial Valley 3; Lot 7, Block 8	151 Lois Dr	Approved	23% to 24% - RE	BOA
2014	Pine Street Park; Lot 18	829 Owl Dr	Approved	24% to 25% - RE	BOA
2014	Centennial 8; Lot 60	910 Sunflower St	Approved	29% to 30% - RE	Admin
2014	Sundance 2 Replat; Lot 6	450 Fillmore Ct	Approved	20% to 23% - RE	BOA
2014	Pine Street Park; Lot 30	741 Pine Needle Ct	Approved	24% to 26% - RE	BOA
2015	Saratoga 2; Lot 74	900 Cleveland Ct	Approved	25% to 26% - RE	Admin
2015	Pine Street Park; Lot 99	719 Pine Needle Ln	Approved	27% to 29% - RE	Admin
2015	Centennial Valley 3	175 Lois Dr	Approved	31% to 33% - RE	BOA
2015	Pine Street Park; Lot 84	725 Church Ln	Approved	28% to 30% - RE	Admin
2015	Saratoga 2; Lot 71	838 Cleveland Ct	Approved	23% to 24% - RE	Admin
2015	Ridgeview Estates, Lot 68	598 W Willow	Approved	20% to 23% - RE	BOA
2015	Pine Street Park; Lot 83	717 Church Lane	Approved	29% to 30% - RE	Admin
2015	Heritage 2; Block 5; Lot 14	524 W Lois Way	Approved	27% to 32% - RL	Admin
2015	Sundance; Lot 28	437 Sycamore Ct	Approved	24% to 25% - RE	Admin
2016	Sundance; Lot 83	399 Van Buren Ct	Approved	23% to 24% - RE	Admin
2016	Saddleback 1; Lot 76	541 W Arrowhead St	Approved	25% to 29% - RE	Admin
2016	Pine Street Park; Lot 56	600 Spruce Cr	Approved	28% to 28% - RE	Admin
2016	Centennial 8; Lot 52	944 Sunflower St	Approved	19% to 24% - RE	Admin
2016	Sundance 3; Lot 40	120 S Warbler Ct	Approved	17% to 27% - RE	Admin
2016	Pine Street Park; Lot 102	726 Ponderosa Ct	Approved	21% to 23% - RE	Admin
2016	Pine Street Park; Lot 3	750 Owl Ct	Approved	27% to 29% - RE	Admin
2016	Centennial 8; Lot 24	952 Arapahoe Cr	Approved	23% to 25% - RE	Admin
2016	Saddleback 1; Lot 22	1067 Eagle Ct	Approved	20% to 23% - RE	Admin
2016	Pine Street Park; Lot 57	602 Spruce Cir	Approved	24% to 26% - RE	Admin
2016	Grove at Harper Lake; Lot 17	1166 Harper Lake Dr	Approved	26% to 31% - RE	BOA
2017	Scenic Heights; Block 3; Lot 16	1612 Longs Peak Dr	Approved	13% to 26% - RE	BOA
2017	Centennial Valley Filing 3; Block 6; Lot 10	108 Lois Drive	Approved	20% to 23% - RE	BOA
2017	Centennial 8; Lot 55	932 Sunflower St	Approved	28% to 30% - RE	BOA
2017	Sundance; Lot 26	415 W Sycamore Ct	Approved	17% to 30% - RE	Admin
2017	Sundance; Lot 43	392 W Sycamore Ln	Denied	27% to 33% - RE	BOA
2017	Centennial 8 Replat A; Lot 12	984 Arapahoe Cir	Approved	28% to 30% - RE	Admin
2017	Saratoga; Lot 63	511 Adams St	Approved	20% to 23% - RE	BOA
2017	Sundance; Lot 83	399 Van Buren Ct	Approved	24% to 26% - RE	Admin
2017	Centennial Valley Filing 3; Block 2; Lot 17	120 Lincoln Cr	Approved	19% to 21% - RE	Admin
2018	Sundance; Lot 43	392 W Sycamore Ln	Approved	27% to 30% - RE	BOA

Year	Subdivision	Project Address	Case Status	Request	Type
2018	Hilltop; Lot 64	794 W Tamarisk	Approved	23% to 25% - RE	BOA
2018	Meadows at Coal Creek; Lot 44	450 Orchard Dr	Approved	24% to 27% - RE	BOA
2018	Meadows at Coal Creek; Lot 96	734 Orchard Ct	Approved	27% to 30% - RE	Admin
2018	Hilltop; Lot 62	818 W Tamarisk Ct	Approved	18% to 22% - RE	Admin
2018	Saratoga 2; Lot 83	879 Cleveland Ct	Approved	21% to 28% - RE	Admin
2018	Saratoga; Lot 28	137 W Elm ST	Approved	20% to 22% - RE	Admin
2018	Sundance; Lot 37	456 W Sycamore	Approved	19% to 27% - RE	Admin
2018	Centennial 8; Lot 76	963 Sunflower St	Approved	26% to 29% - RE	Admin


RE Property Analysis
Existing Lot Size
RE Parcels
Lot Size
less than 12,000 sf
12,000 sf and greater
City of Louisville Boundary
City of Louisville
COLORADO • SINCE 1878
Louisville
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community


RE Property Analysis
Existing Lot Sizes
RE Parcels
Lot Size
Up to 5,000
5,001 to 7,000
7,001 to 9,000
9,001 to 12,000
12,001 and up
City of Louisville Boundary
City of Louisville
COLORADO • SINCE 1878
Louisville
Louisville Reservoir
Harper Lake
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community


RE Property Analysis
Existing Lot Coverage
RE Parcels
Lot Coverage %
20% or less
20.1% or greater
City of Louisville Boundary
Does not include decks, porches, patios, etc.
City of Louisville
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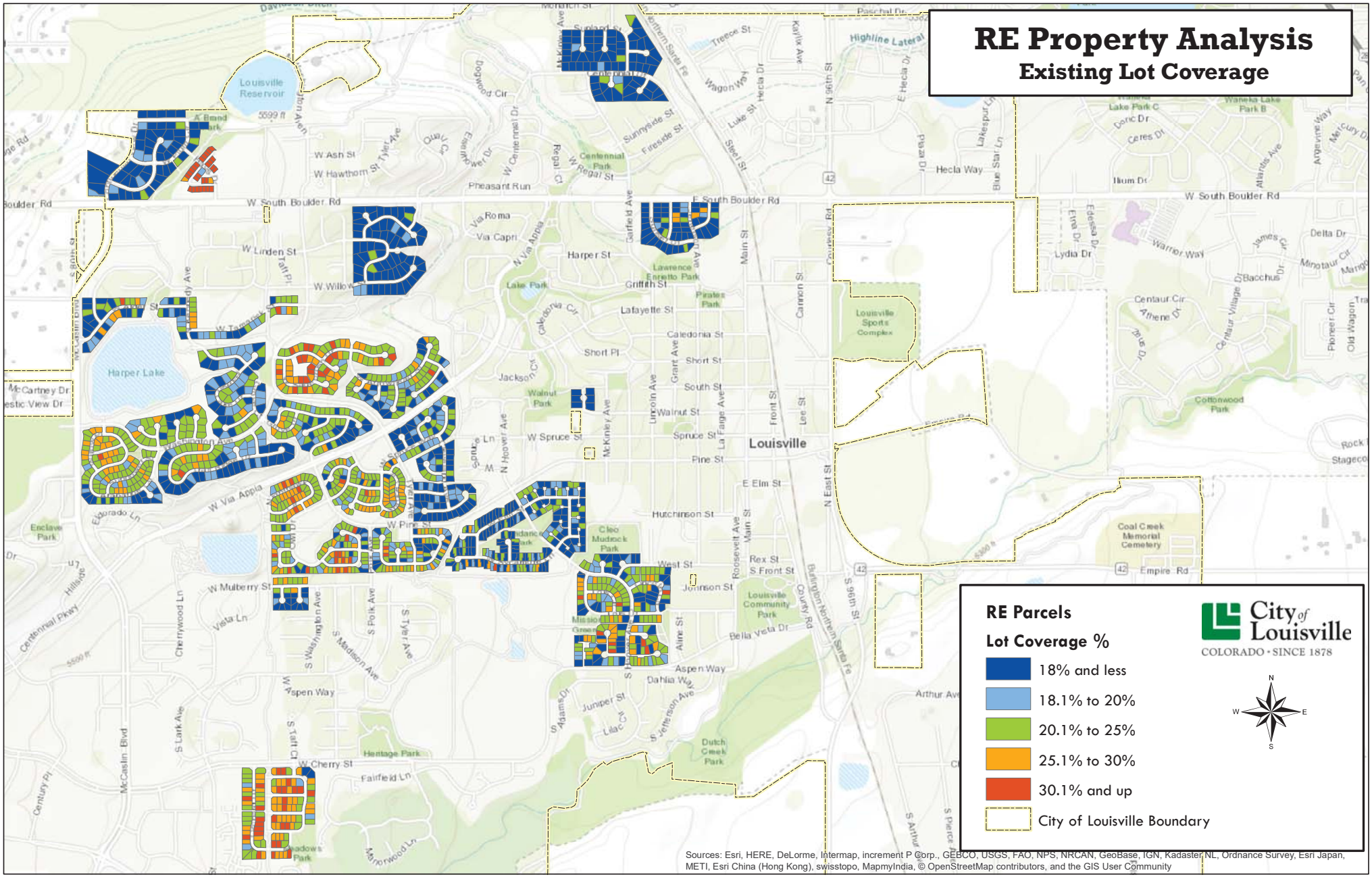
Louisville
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community


RE Property Analysis
Existing Lot Coverage
RE Parcels
Lot Coverage %
18% and less
18.1% to 20%
20.1% to 25%
25.1% to 30%
30.1% and up
City of Louisville Boundary
City of Louisville
COLORADO • SINCE 1878
Louisville
Louisville Reservoir
Harper Lake
Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

City of Louisville
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Planning Commission
Meeting Minutes
May 10, 2018
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order – Brauneis called the meeting to order at 6:32 PM

Roll Call was taken and the following members were present:

Commission Members Present:	Steve Brauneis, Chair
	David Hsu, Vice
	Keaton Howe
	Dietrich Hoefner
	Jeff Moline
Commission Members Absent:	Debra Williams, Secretary
	Tom Rice
Staff Members Present:	Rob Zuccaro, Dir of Planning & Building Safety
	Kristin Dean, Principal Planner
	Lisa Ritchie, Associate Planner
	Amelia Brackett, Planning Clerk

APPROVAL OF AGENDA

Moline moved and Hsu seconded a motion to approve the May 10, 2018 agenda. Motion passed by voice vote.

APPROVAL OF MINUTES

Hoefner abstained due to his absence at the last meeting. Brauneis forwarded the approval to the next meeting due to lack of a quorum.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

NEW BUSINESS – DISCUSSION/DIRECTION

RE Zone District Code Amendment – Staff requests that Planning Commission discuss possible options for a code amendment related to Residential Estate lot coverage standards.

- Applicant and Representative: City of Louisville
- Case Manager: Lisa Ritchie, Associate Planner

Ritchie stated that City Council had requested staff evaluate the Residential Estate Zone District (RE) standards in the Louisville Code under the City Council Work Plan for 2018. Staff presents this as discussion and direction (no action) from the Planning Commission related to amending the Residential Estate Zone Districts (RE) standards.

Ritchie provided background on the RE zone distinction. Louisville Municipal Code Section 17.12.040 established Yard and Bulk Standards, including setbacks and building heights,

among others. At that time, the City had approved 20% lot coverage paired with a 12,000 square foot minimum lot size.

There are about 1,785 residential properties zoned RE in Louisville. They consist of 27 major subdivisions plus a handful of replats platted between 1959 and 1995. The majority of the neighborhoods have PUDs, but four of them do not: Scenic Heights, Louisville North, Continental View Estates, and Ridgeview. In 1996, the Code was amended to require yard and bulk standards in the LMC apply when a PUD is silent, but staff did not begin applying this amendment until 2012. The result has been to require variances whenever property-owners want to make changes to their homes. Between 2012 and 2018, staff processed 44 variances – 22 administrative and 22 through the Board of Adjustment. All but one was approved, with lot coverage ranging from 21% to 34% coverage.

Ritchie showed data for existing lot sizes, divided into conforming and nonconforming based on the 20% maximum lot coverage allowed in RE. The data did not include decks, even though decks higher than 30 inches count as part of the lot coverage. That means that some that were shown as conforming were likely nonconforming.

The 2018 City Council Work Plan addressed RE zoning due to the undue burden on homeowners produced by the variance process. After the Commission meeting, staff will conduct public outreach and bring back feedback and more information to the Commission. From there, staff will bring the Commission's recommendations to Council.

Ritchie presented two possible scenarios for the Commission to consider. The first scenario was to rezone properties to another zone district. Challenges included that the neighborhoods and PUDs would not be uniform with respect to lot size and lot coverage, resulting in non-conformities. Additionally, the City cannot rezone to RL without amending the Code. Finally, the RM zone district would allow two units on all lots greater than 7,000 square feet, which could change the character of the neighborhoods currently zoned RE.

The second scenario would amend the RE Lot Coverage Standard. This scenario would allow for different standards based on lot size, similar to Old Town Overlay. The intent was to significantly reduce the number of properties with non-conformities. With this scenario, staff examined a number of options.

- Increase lot coverage allowance to 30% for all lots less than 8,000 square feet, resulting in a conformity rate of 83%.
- Increase lot coverage to 30% for all lots less than 9,000 square feet, resulting in a conformity rate of 88%.
- Increase lot coverage allowance to 30% for all lots less than 10,000 square feet, resulting in a conformity rate of 91%.
- Increase lot coverage allowance to 30% for all lots less than 11,000 square feet, resulting in a conformity rate of 94%.
- The final two options involve a more graduated allowance, similar to the Old Town Overlay. The non-conformities are a little higher, but staff believes it might help preserve neighborhood character better than some of the other options.
    - Increase lot coverage allowance to 30% for all lots less than 7,000 square feet and 25% for lots 7,000 to 10,000 square feet. This would result in an 86% conformity rate.
    - Increase lot coverage allowance to 30% for all lots less than 8,000 square feet and 25% for lots 8,000 to 11,000 square feet, resulting in a conformity rate of 90%.

Brauneis asked if any of the commissioners' homes would be affected by the zoning changes. None would be.

Moline suggested that homeowners might appreciate a graphic depiction for what the 20% coverage would look like on a typical lot in the public outreach material. He asked if staff felt that RE district was the one that needed the most attention or if there were others that needed attention.

Ritchie replied that the other districts had fewer and more appropriate variance requests.

Zuccaro added that the RE zone is unique. When the buildings were constructed in the 1980s and '90s, everyone probably assumed that the buildings were conforming. It was not until 1996 and afterwards that the houses became out of compliance. Staff does not want to do something that greatly affects neighborhood character. However, a huge number of residents in the City want to make improvements to their property, but they're already nonconforming.

Ritchie added that today, small home improvements are increasingly common. Using the setback restrictions in RE alone could generally result in 50% lot coverage, which seemed to be too high for a cap.

Moline responded that there were also interesting new trends about homeowners preferring yards versus larger homes.

Hoefner stated that the new restrictions should consider the people who were already in RE. Those people spent a lot of money to live in Louisville and most people do not check zoning codes before buying their homes. For those people, "nonconforming" would not sound good. He noted that affordable housing may come up as a related issue in the Council meeting. He added that there was a culture change around wanting yards and grass, which he thought should be up to the person who bought the house.

Brauneis stated that the process should be smoother, but the City had to balance that with the impact on the neighborhood.

Moline asked Brauneis if the impact felt like a physical impact.

Brauneis gave the example of a large building on a small property, which might be desirable on a personal level but not on a neighborhood level. Additionally, there was the environmental concern that a growth in house size could increase the amount of space that needed to be heated and cooled, even if more people would not necessarily be living in these houses.

Moline responded by asking if the storm water regulations were included in the original zoning restrictions.

Zuccaro responded that you could pave 100% of your lot with concrete and that would not affect your zoning compliance. Lot coverage only addressed structures over 30 inches and covered patios.

Hsu asked for a more encompassing goal for the RE change than reducing nonconformities, since there seemed to be more factors to consider. He suggested considering neighborhood character. He asked if there was a fee for variances.

Ritchie explained the variance process. Most of the time, people submit a building permit not knowing they have an issue and then staff has to let them know that they have a problem. Administrative variances carry around a $95 fee, but when the variance needs to go to the Board of Adjustment it goes up to around $750. She added that when around 99% of the variances get approved, it seemed like the process could be simplified.

Brauneis asked that staff provide additional information on acronyms and jargon for public outreach materials.

Zuccaro noted that the older neighborhoods could be grandfathered in to avoid being affected by the new restrictions, which might help address individual neighborhoods' concerns.

Moline wondered if there was an underlying issue that drove the City to abolish the zone districts. He asked if the 1994 ordinance explains why the City wanted to restrict changes at that time.

Ritchie stated that Council did it in the same ordinance that established the new single-family zones to replace the old ones. They may have wanted to reduce the lot coverages overall.

Hsu suggested that there were some mathematical ways to avoid punishing homeowners who are a few square feet over.

Brauneis asked for public comments.

Sheree Burcar, 1881 West Choke Cherry Drive in Continental View Estates, wanted to learn more about what was at stake. She stated that Continental View had an HOA, but the HOA documents did not seem to have much about zoning. She stated that one of her concerns was having large houses on small lots. She added that different neighborhoods may need different solutions.

Hsu wondered if there was a way to avoid large houses specifically in order to preserve the character of the neighborhood, maybe by putting restrictions on the growth of the house over time. He suggested putting this out as an option during the open houses.

Brauneis added that more examples of what it would look like if these options played out would be helpful.

Howe stated that he saw both sides of the issue. He noted that the City needed to be responsive to affordable housing, when growing families could not afford to buy new homes and turned to expanding their existing homes instead. He added that they needed to be consistent with the previous variances that have been approved. He asked for more information on the 30% number. Howe suggested that the discussion consider the disadvantages of increasing maximum coverage, if homeowners should be restricted in improving their homes and properties, and if the 30% number was the right one to start with. Howe showed that if using 30% as the maximum across the board would produce over 90% conformity. People could build larger homes, but they would also be on larger lots, so you would still be abiding by the Code.

Ritchie responded that the 30% referenced the administrative variance threshold in the Code, which allows lot coverage of up to 30% for lots less than 8,000 square feet zoned RE. Ritchie added that the first option would make the variance threshold permanent. This would take away neighborhood input, making everything by-right, but it mirrors the current threshold.

Brauneis stated that he did not think the main push was to bring lots out of non-conformity.

Ritchie stated that one of the goals was to reduce non-conformities based on Council's request, while honoring neighborhood input and character.

Moline clarified that one of the issues seemed to be that there is a burden on staff to deal with non-conformities.

Zuccaro responded that there was an administrative burden, but that their concern was the burden on City. The non-conformity rate prohibits any additions to buildings. For example, when owners want to move a nonconforming structure, the way the Code is written they can't even if it does not add to the overall lot coverage.

Hoefner stated that policy had already approved these houses and the law should match up with what was allowed in policy.

Hsu suggested that the restrictions could be phrased in terms of added overall square footage. The numbers on the scatterplot showed that each restriction ended up being about 2,400 additional square feet above the existing square footage no matter the size.

Hoefner voiced his support for Hsu's idea. He suggested adding a color on the scatterplot for approved variances. If they're mostly in the nonconforming area already, then they would not need to be brought into the fold.

Howe noted that increasing lot coverage would not help the issue of affordability.

Moline asked Hsu if there would be a fixed square footage.

Hsu stated that would be the case unless your house was over 12,000 square feet or if you're less than 8,000.

Howe reminded the Commission that the data currently did not reflect the decks or patios.

Ritchie stated that staff did not know if they could get deck data, but they would try.

Hsu stated that it would be really helpful and that staff could reflect estimates with mirror bars.

Brauneis asked for additional comments of staff.

Moline asked what the next steps would be. He thought an open house would be the best next step for public outreach.

Ritchie stated that the open house would probably be best.

Brauneis asked if there would be a significant public posting in that case.

Zuccaro stated that there would probably be direct contact through postcards for affected properties.

Brauneis added that neighbors would also be an important group to contact. He also liked the webpage idea.

Sheree Burcar, 1881 West Choke Cherry Drive, stated that HOA guidelines might be impacted. She suggested that decks could be handled differently than other kinds of additions to homes. She added that the meeting had been very educational.

Zuccaro responded that staff could explore treating decks differently than other types of additions to homes.

STAFF COMMENTS

Brauneis asked for staff comments. He asked for an update on water works and reseeding from staff.

Zuccaro stated that they could ask Public Works for an email update for the Commission.

Zuccaro updated the Commission on the Design Guidelines, noting that there was a survey online at engagelouisvilleco.org for public comment on the guidelines and sign code. He asked if anyone had discussion suggestions for the joint session with City Council on June 12th.

Hsu stated that he would not be at the June 12th meeting. He suggested that the Commission would benefit from guidance on how much policy direction Council wanted from the Commission. Hoefner and Brauneis concurred.

Zuccaro also updated the Commission on the Transportation Master Plan, noting that public outreach would start in June or July.

Zuccaro added that it was possible that there would be no agenda items for the June meeting. Staff has had a low number of applications over the past few months.

Howe asked if sustainability and building efficiency could be a topic for the joint meeting with Council.

Brauneis suggested that the Commission be briefed on the Sustainability Advisory Board's work.

Zuccaro responded that updating the building codes and making a Transportation Master Plan were recommendations from the SAB.

ITEMS TENTATIVELY SCHEDULED FOR THE REGULAR MEETING JUNE 12, 2018

None.

Adjourn:
Hoefner made motion to adjourn, Howe seconded. Brauneis adjourned meeting at 7:45 PM.

City of Louisville
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City Council

Special Meeting Minutes

July 10, 2018
City Hall, Council Chambers
749 Main Street
7:00 PM

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call - the following members were present:

City Council: ***Mayor Robert Muckle***
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann

Staff Present: ***Heather Balser, City Manager***
Megan Davis, Deputy City Manager
Rob Zuccaro, Planning & Building Safety Director
Lisa Ritchie, Associate Planner
Emily Hogan, Assistant to the City Manager
Katie Baum, Sustainability Specialist
Meredyth Muth, City Clerk

DISCUSSION/DIRECTION –
BOULDER COUNTY GREENHOUSE GAS INVENTORY

Katie Baum, Sustainability Specialist, reported in 2017, Boulder County hired a consultant to complete the 2016 countywide greenhouse gas (GHG) inventory, revisit the County's sustainability goals, and develop strategies for GHG emissions reductions. This represents the third update of this report. The County initially conducted the inventory of GHG emissions in 2005 and updated it in 2011. The purpose of the inventory is to address climate change at the local level and to understand GHG emissions as a community.

A greenhouse gas inventory provides a full accounting of the sources of carbon pollution within a geographic area. The inventory helps to identify sources of emissions and tracks progress over time.

Lea Yancey, Boulder County Community Sustainability Specialist, provided an update on the County-wide inventory. The final report was submitted last month. It provides a full accounting of the sources of GHG emissions and tracks information. The first inventory was in 2005 with another in 2011 and now in 2016.

Boulder County is committed to addressing climate change locally. Carbon is now recorded at an all-time high. If we continue on this path it is projected that Boulder will have over 35 days per year over 95 degrees by mid-century. Studies show there are significant economic impacts of the projected future climate conditions.

Yancey reviewed the methodology of the report. It is a full accounting of greenhouse gas emissions countywide for all sources including residential and commercial emissions, transportation emissions, waste in landfills, and industrial processes. She reviewed countywide emissions by sector and by source and those for Louisville.

Yancey stated the County wanted to identify existing and new GHG emission reduction strategies. The strategies fall under six categories: building energy, renewable energy, transportation, oil and gas, waste, and other efforts. She noted some actions being taken by municipalities in Boulder County.

The report concluded: buildings and transportation are 90% or more of all emissions; waste reduction is important too; countywide emissions have decreased at the same time the population grew; emissions reductions due to a cleaner grid had the greatest impact on emission reductions so therefore policy is important; and ongoing collaboration is key.

Councilmember Maloney asked how they were able to measure the sources of electricity emissions and how solar on homes affects that. Yancey reported the information comes from looking at how much carbon is released in the atmosphere based on how many kW are used for the community. It can be a bit flawed as the solar installed in the County does not give us direct credit, but it is done this way so solar is not double counted. Separate information from Xcel does help identify the solar impacts in the County.

Mayor Muckle asked how the aviation fuel use is tracked. Yancey stated the local municipal airports are allocated to those cities and DIA is allocated per capita and by assumption on how much air travel residents use. Mayor Pro Tem Lipton asked to get more detail on the allocation of DIA's aviation fuel usage and if it includes pass through passengers as this is material to the numbers for transportation emissions.

Mayor Pro Tem Lipton asked how Xcel's new plan for more renewable energy is counted in this report. Yancey noted the GHG report is a snapshot in time and when the consultant looked at future opportunities they did factor in the projections from Xcel.

Councilmember Stolzmann thanked the County for doing the inventory. She noted her concern about where we are in hitting our targets. It looks like with the new methodology we seem to be behind to meet the 2020 goal. Yancey stated we are not on track to reach the goal. Councilmember Stolzmann would like that to be more obvious in the report. Councilmember Stolzmann added she felt the per capita section is not that helpful as some communities don't have commercial or industrial impacts. It doesn't allow for true comparisons and she suggested it be broken out more per category.

Mayor Muckle asked about comparisons from previous years. Yancey stated the methodology changed somewhat each year so the comparisons are not ideal. This consultant included better data.

Baum stated the report recommendations for Louisville somewhat align with the Sustainability Work Plan. They include:

- Evaluate the adoption of updated building codes to the further advancement of energy efficiency in new buildings.
- Explore guidelines favoring energy efficiency in the new Planned Unit Development (PUD) Guidelines as potential "waiver criteria" and adding Electric Vehicle Supply Equipment (EVSE) build-out for general or parking waivers.
- Apply for a Regional Air Quality Council (RAQC) grant to install an electric vehicle charging station (EVSE) at the Recreation Center in 2018.
- Partner with Xcel Energy to increase the share of alternative energy with our community.

Mayor Muckle stated the Council is supportive of the Sustainability Work Plan items. He noted the effectiveness of collaborating with PACE on the Green Business Program.

DISCUSSION/DIRECTION – ENERGY FUTURE COLLABORATION DRAFT MEMORANDUM OF UNDERSTANDING WITH XCEL ENERGY

Katie Baum, Sustainability Specialist stated on May 8, City Council directed staff to begin drafting a Memorandum of Understanding to enter into a partnership with Xcel Energy through its Energy Future Collaboration program. The MOU establishes a voluntary partnership between the City and Xcel with the goal of developing a strategy for achievement of a shared vision through collaboration focused on innovation, clean energy, economic development, customer programs and technology. The process for drafting the MOU began by establishing mutual values, vision and guiding principles, which was based on the goals and strategies identified in the Louisville Sustainability Action Plan and the values listed in the City's Comprehensive Plan. Xcel provided a draft MOU that staff and its Council liaisons reviewed and made edits to. Xcel reviewed the proposed revisions and approved the draft MOU.

The next step in the process is drafting Attachment 1 for the MOU, which outlines initial ideas for the City and Xcel to consider for the Work Plan. The Work Plan will detail the

deliverables to be presented and follow the guiding principles outlined in the MOU. After Council has made edits to Attachment 1, it will be forwarded to Xcel for review. Once it is finalized, staff will bring back the MOU and Attachment 1 to Council for approval.

Councilmember Loo and Councilmember Stolzmann worked on this document and stated they were trying to follow the Sustainability Action Plan and City Council goals in this document while reducing emissions. They want City Council feedback before it goes to Xcel for final review. Councilmember Stolzmann said they tried to make it Louisville specific as much as possible. It is a list of ideas to work with, not a definitive road map.

Regarding the MOU Mayor Pro Tem Lipton requested the City Attorney make sure this is not an exclusive agreement with Xcel in case there are options with other providers. That should be explicit in the agreement.

Public Comments - None

Councilmember Maloney stated he feels this covers the thoughts and interests of the full City Council. He likes that it is Louisville specific and supports it as written. Mayor Muckle agreed it looks ready to go as is. Members agreed.

DISCUSSION/DIRECTION – RESIDENTIAL ESTATE LOT COVERAGE

Planner Ritchie stated in the 2018 City Council Work Plan, City Council directed the Planning Department to explore amendments to the Louisville Municipal Code (LMC) Residential Estate (RE) Zone District standards related to lot coverage, or rezone certain RE zone district properties to a more appropriate zone district when considering lot coverage.

She showed a map of the properties that have RE zoning. The LMC establishes yard and bulk standards and the RE standards have been in place since 1976. In 1994 the LMC was amended to allow other types of different types of residential zone districts and prohibited re-zoning to RE. Generally as lot sizes are smaller the allowed lot coverages are larger.

Background:

- 1,785 residential properties zoned RE
- 27 major subdivisions, plus a handful of replats
- Platted between 1959 and 1995
- Four neighborhoods do not have PUDS
    - Scenic Heights
    - Louisville North
    - Continental View Estates
    - Ridgeview

The LMC describes Residential Estate (RE) – the residential estate district is intended to provide an alternative to typical urban density single-family residential areas by providing larger minimum lot areas.

1996 – LMC amended to require yard and bulk standards apply with a PUD is silent
2012 – Staff began applying this when evaluating residential building permits affecting lot coverage
2012-2018 – 46 variances processed for RE lot coverage
22 administrative, 22 Board of Adjustment,
All but 1 approved, 1 still pending, ranging from 21-34%

Process

- Included in City Council's 2018 Work Plan
- Planning Commission Discussion, May 10, 2018:
- City Council, July 10, 2018
- Public outreach:
    - Mailing
    - Open House, August 29, 2018
    - Webpage/Social Media
    - Neighborhood Surveys
- Return to Planning Commission for recommendation
- City Council to consider an Ordinance

Planner Ritchie asked Council for questions and if any additional background was needed.

Mayor Muckle stated there is a question if sitting members need to recuse themselves if they live in one of these lots. He felt a disclosure could be made if a Council member chose to, but noted this affects a large number of people and is not specific to anyone.

Councilmember Loo stated she lives in one of the lots and would recuse herself if City Council felt she should. Mayor Muckle asked if she feels she can be objective. She stated yes.

Councilmember Keany asked if making this change would automatically give the right to someone to expand the size of their home. Ritchie stated some could but it is the intent of staff not to change the character of neighborhoods. If the change is made, some homes could make expansions. Councilmember Keany stated staff will need to be clear about this in the process.

Councilmember Maloney asked what would be the downside of doing this. Ritchie said this might be against the original intent and maybe neighborhoods think this should be done on a case by case basis. This is why the public comment process is important.

Mayor Pro Tem Lipton asked if this affects subdivision agreements and plats. Ritchie stated there are some plats with zoning that could be affected, but generally this is not intended to affect those. Director Zuccaro stated so far they have not found any conflicts with subdivision agreements and lot coverage, but they all need to be reviewed carefully.

Councilmember Loo would like staff to be very clear that some of these lots also have HOA regulations that might affect this discussion. We need to be very clear in the explanations since this is a complex discussion and lots of rules apply.

Director Zuccaro stated on a day to day basis staff talks to RE homeowners who are frustrated with the nonconformities. It is unusual to have so many nonconforming properties. It is very complex and each neighborhood has its own character we want to respect. It appears there were unintended consequences from policy changes over time, but the intent is not to change the character of any neighborhood.

Councilmember Loo would like to know if the Board of Adjustment (BOA) is feeling over burdened by these requests. How much energy and cost is it for staff to address these under the current rules. She wonders if the current system is working other than the cost of taking a case to the BOA.

Ritchie stated the process is working but there are people who simply walk away from the counter frustrated about the process. Director Zuccaro stated he is not particularly concerned about staff time or the BOA but is concerned about the large number of residents that are affected and frustrated. Usually someone wants a small addition or change and can't do so because they are already at the maximum lot coverage. Staff doesn't anticipate huge additions, just some flexibility.

Councilmember Stolzmann felt the current situation is not working and it would be better if there were good standards to apply. She stated good data and visuals showing what changes will look like will help explain this to residents.

Councilmember Leh stated it is a burden on citizens and should be addressed. It is complex and will take some good explanations for people to understand this issue. He appreciated what staff had put together for Council review. He suggested a list of frequently asked questions.

Mayor Pro Tem Lipton asked how a property with a current variance would be handled under the new regulations. Planner Ritchie noted staff will consider that and bring it back as a talking point.

Councilmember Loo asked how you explain why smaller lots get higher lot coverage. Ritchie stated the larger lots were intended to feel more spacious but still get a large home. The reasonable home size on a smaller lot as a percentage needs to be larger.

Councilmember Loo stated there will need to be a good explanation for people to understand the lot coverage allowance percentages.

Councilmember Maloney stated it is really important to maintain the character of the neighborhoods. That should be a message of the project.

Mayor Muckle suggested more public meetings tailored to specific neighborhoods.

Councilmember Leh stated there needs to be a clear set of rules people can understand and staff can apply.

Public Comments – None.

ADJOURN

Members adjourned at 8:22 pm.

_____
Robert P. Muckle, Mayor

_____
Meredyth Muth, City Clerk

Lisa Ritchie

From: Scott, Rob (ITA) <rscott@ita.usta.com>
Sent: Saturday, September 8, 2018 3:04 PM
To: Lisa Ritchie
Cc: abbycaul.scott@gmail.com
Subject: Lot coverage comment

Hi Lisa,

I received a postcard about increasing the 20% standard in RE Zoned properties. I was in New York the day of the open house but want to weigh in and am in favor of this. Please send me any updates or communications you may have about this move. I am:

Rob Scott
946 Arapahoe Circle
Louisville, Co 80027

(720)771-0148

Rob Scott
executive director
USTA Intermountain Section
9145 E. Kenyon Avenue, Suite 201
Denver, CO 80237-1819
(303)695-4117 x222
(720)771-0148 cell

"To Promote and Develop Tennis in Intermountain"

"Section of the Year "

Lisa Ritchie

From: Kirk Watson <kirk@watsondb.com>
Sent: Saturday, September 1, 2018 2:03 PM
To: Lisa Ritchie
Subject: R-E Coverage

I strongly approve of your effort to rectify the process used years ago to squash PUDs into a different extant zoning. I also support your "fix it as easily as possible" approach just to change the allowable footprint coverage for RE subdivisions. I would support simply increasing it to the 32% you mentioned as the maximum allowed by the Board of Adjustment.

This is the only fair way to make this happen, as so many appeals have already been made and approved by Adjustment. To enforce it now, or to reduce what others have already done would be unfair.

Kirk Watson
319 W Spruce Lane

Lisa Ritchie

From: Joshua Sroge <jsroge@gmail.com>
Sent: Friday, September 7, 2018 2:58 PM
To: Lisa Ritchie
Subject: Re: RE Zone District - Open House follow up

Thanks, I chopped off a sentence that would have made the last sentence make sense...

The problem to be solved, using Sundance as an example, is that people in the two story homes have very limited ability to add ADA compliance to their homes by adding a restroom. The two story homes were not built with a first floor restroom, and many of the homes are on small lots where adding a restroom may expand the footprint >30%.

I understand that allowing 35, 40, or 50% coverage in RE will change the fundamental aspects of the neighborhood, much in the way downtown has evolved as the scraping of old cottages for new build has proceeded. That has to be balanced with the requirements of modern living and enabling "aging in place" as the true impetus for proposing the change to the RE zoning (as opposed to the primary reason being existing non-confirming homes as indicated on the mailing). The City should want to encourage folks of all ages to be able to live in these areas, and make possible the addition of laundry and full bathroom facilities on the main floor, which presently is only possible on the few largest lots. There are significant age and ADA concerns that I urge the City to consider in the rationale for the proposed change, but again do understand how this would forever alter aspects of the existing RE neighborhoods. Tough decisions indeed.

Have a great weekend...!

Josh

Thanks

On Fri, Sep 7, 2018 at 2:50 PM Lisa Ritchie <lritchie@louisvilleco.gov> wrote:

> Joshua,
>
> Thanks for your comments. We are early in this process, and are still considering options on how to move forward. I'll save your email and include this idea in the range of options that are considered. Please reach out with additional thoughts or comments. Thanks!
>
> ***Lisa Ritchie, AICP***
>
> *Associate Planner*
>
> *City of Louisville*
>
> *303-335-4596*

From: Joshua Sroge [mailto:jsroge@gmail.com]
Sent: Friday, September 7, 2018 12:16 PM
To: Lisa Ritchie <lritchie@louisvilleco.gov>
Subject: RE Zone District - Open House follow up

Hi Lisa,

I was out of town for the RE District Open House and am hoping that my input would still be able to be included in regards to the possible increase in the 20% standard. I live in Sundance at 437 W Sycamore Ct, a residence where the house was initially constructed in excess of 20%. We had a recent project to add 48 sqft and thus it required an administrative variance, so we understand this issue well.

Would the increase above 20% result in a corresponding increase to the 30% limit above which a variance is required from the Board of Adjustment? Meaning if we went to 25%, would an administrative variance be utilized to go up to 35% ? My comment would be that they should rise together, otherwise there is only a narrowing of the band for an administrative variance, and the only problem that is solved by the City increasing the RE Zone above 20% is that the number of non-confirming properties would decrease, which is not in of itself a true problem. One can always apply for an administrative variance as we did for minor additions. The problem to be solved, using Sundance as an example, is that people in the two story homes have very limited ability to add ADA compliance to their homes by adding a restroom.

Thank you for your time and efforts...!

Joshua Sroge

437 W Sycamore Ct

720-334-4409

Sign In - August 29, 2018

City of Louisville
COLORADO • SINCE 1878

(20)

Name:	Address:
Julia Reyburn	535 Orchard Dr
Mary Hastings	855 W Chestnut Cir.
TED HIRE	318 SOUTH PL.
Karen Lamb	1066 Meadow Ct
Frank Lamb	same
Mildred Beinshoof	215 Suhland St.
Jeffrey Hall	198 Lois Cir
GREG SIMPSON	692 SUNNYSIDE ST
Donald Judy GRUSH	601 GARFIELD AVE
Tim Conile	134 Jackson Cir
SCOTT BERGER	821 McKINLEY AVE.
NICOLAI BACHMAN	787 NIGHTHAWK CIRCLE
Theresa Watson	319 W Spruce Ln
Laura Berggren	171 LOIS CIRCLE
Betty Simpson	182 Lois Circle
GAIL WETROGAN	930 McKINLEY
Gary Paulas	546 Hoptree Ct.
DAVID BURNS	1023 N ARDOR ST
Jerry Deall	624 McKinley Ave
Camille Donnell	2366 Senator Ct
M. FRANKLIN	482 LOGAN
Beth Machr	1091 Azure Way
STEVE KOWAL	767 W LOIS CT
Jim Goebelbecker	673 Columbine CT
Rich Ratajczyk	1037 WILLOW PL
Richard Mackay	854 W Tamarisk

(24)

Sign In - August 29, 2018

City of Louisville
COLORADO · SINCE 1878

Name:	Address:
JANE M. COYLE	173 S. CARTER LN
Bev Campbell	586 Cleveland Ave
Russ Evans	436 E Fir Ct
Mary A. Walker	852 Trail Ridge Dr
Thomas Walker	852 Trail Ridge Drive
Michael Kazarijan	108 Aline Street
Mike Smith	788 W Tamarisk ST
William Akeyta	636 Johnson AVE.
Jacqueline Johnson	231 Vulcan ST.
HENK VANDENBERGH	667 W SAGEBRUSH DR
Gordon Reyburn	535 Orchard Dr.
JEAN + JERRY ROSAR	427 E FIR CT
Ryan Portney	710 Pine Needle Ln
Steve Costello/Susan Smith	902 Grove Dr
Tom Phelps	808 W. MAHOGANY CIR
Katy Berger	821 McKinley Ave.
Mike Williams	2351 Senator Ct
Steve Savino	184 W. Elm St.
Christine Smock	372 W Sycamore
Jesse Smock	"
Carol Hewitt	670 Tamarisk Ct.
Andy Hewitt	" " "
Rob Lathrop	601 Johnson St

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name: Gary Pavlas

What neighborhood do you live in?
RE Saratoga II 546 thistle Ct.

Have you been impacted by the lot coverage standard?
No, have not applied for a variance

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☒ **Increase the lot coverage standard in my neighborhood** ⟹ 7K → 30% ↑ Scale ↑ 12K → 20%
- ☐ **Remove the lot coverage standard**

Comments or other ideas:

Seems like a reasonable solution

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name:

Gordon & Julia Reyburn

What neighborhood do you live in?

Meadows at Coal Creek

Have you been impacted by the lot coverage standard?

Yes. We plan to extend our deck and are currently over the 20% standard

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☑ **Increase the lot coverage standard in my neighborhood**
- ☐ **Remove the lot coverage standard**

Comments or other ideas:

30-35% seems reasonable for lots < 8000 sf.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name: Jean + Jerry Rosar

What neighborhood do you live in?
Centennial Valley 427 E Fir Ct

Have you been impacted by the lot coverage standard?
Yes - over the 20% with just our house
no improvements

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☒ **Increase the lot coverage standard in my neighborhood**
- NO → ☐ **Remove the lot coverage standard**

Comments or other ideas:

INCREASE STANDARD TO 30% —

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name: Mary Hastings

What neighborhood do you live in? Cherrywood

Have you been impacted by the lot coverage standard? Don't Know

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☒ **Increase the lot coverage standard in my neighborhood** — 30%
- ☐ **Remove the lot coverage standard**

Comments or other ideas:

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name: Jim Goebelbecker

What neighborhood do you live in?
673 Columbine CT

Have you been impacted by the lot coverage standard?

Yes

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☒ **Increase the lot coverage standard in my neighborhood**

☐ **Remove the lot coverage standard**

Comments or other ideas:

Simple solution and easy to implement

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Christine Smock

What neighborhood do you live in?
Sundance

Have you been impacted by the lot coverage standard?
I was turned down last year for my request for a 34% coverage. Still pretty angry about that. Cost me $800 and was led to believe it would go through. Board voted 3-3 on it. How about a refund?

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☑ **Increase the lot coverage standard in my neighborhood**

or

☑ **Remove the lot coverage standard**

Comments or other ideas:
I like the idea of changing the zoning to R-L or RM. I'm aware of 2 neighbors who were discouraged from remodeling by my experience — one has decided to move.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Mike Williams

What neighborhood do you live in?
Louisville North

Have you been impacted by the lot coverage standard?
No

Do you have a preferred alternative at this time and why?

- [ ] Keep things as they are and continue to process variances
- [x] Increase the lot coverage standard in my neighborhood
- [ ] Remove the lot coverage standard

Comments or other ideas:

~~It would be~~
Increase lot sizes of 12,000 or greater as well. ~~Most~~ options kept at 20% lot Coverage
Bump to 25%

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name:
Suzanne Smith

What neighborhood do you live in?
902 Grove Dr

Have you been impacted by the lot coverage standard?
Lot size is 7000 – affected yes – impacted not yet

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☐ **Increase the lot coverage standard in my neighborhood**
- ☐ **Remove the lot coverage standard**

Comments or other ideas:
Since PUD was approved – use a sliding scale 7000 = 30% etc. as shown for RL zoning etc.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Rob LaThrop

What neighborhood do you live in?
Old Town – 601 Johnson St

Have you been impacted by the lot coverage standard?
Not Sure built home in 1996

Do you have a preferred alternative at this time and why?

- [ ] **Keep things as they are and continue to process variances**
- [x] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:
20% is too restrictive, especially considering decks and sheds
30% would be more appropriate

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Jerry Deall

What neighborhood do you live in?
Old Town 624 McKinley Ave

Have you been impacted by the lot coverage standard?
No

Do you have a preferred alternative at this time and why?

- [x] **Keep things as they are and continue to process variances**
- [ ] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:

Do not increase lot coverage, it only will increase housing prices. The variance process, though cumbersome still works.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO · SINCE 1878

Name: Russ Evans

What neighborhood do you live in?

Have you been impacted by the lot coverage standard?

No (Not yet)

Do you have a preferred alternative at this time and why?

- [x] **Keep things as they are and continue to process variances**
- [ ] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:

But: Eliminate (or drastically reduce) variance application fee for properties who have been caught by this city created problem

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Mike & Sarah Smith

What neighborhood do you live in?
788 W Tamarisk St Hilltop subdivision

Have you been impacted by the lot coverage standard?
our house is at 21% of standard

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☒ **Increase the lot coverage standard in my neighborhood**

☒ **Remove the lot coverage standard** & retain set backs

Comments or other ideas:
This is a typical example of unintended consequences of a regulatory action taken without adequate stakeholder input. The change in 1996 would never happen if people were aware of the action. We have lived here since 1985 and this is the first we have heard of this issue.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name: DAVID BURNS dcb1995@comcast.net (save the greetings)

What neighborhood do you live in?

CENTENNIAL (N. OF HARPER LAKE)

Have you been impacted by the lot coverage standard?

NO

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☐ **Increase the lot coverage standard in my neighborhood**

☐ **Remove the lot coverage standard**

Comments or other ideas:

(1) I THINK CHANGING RE LOTS LESS THAN 8,000 TO RL MAKES SENSE WITH PERHAPS THE IMPACT ON SET BACKS A POTENTIAL PROBLEM BUT WORTH CONSIDERING. SET BACKS MUST BE MAINTAINED - WE DON'T WANT A LOT OF MCMANSIONS.

(2) REDUCE THE FEE FOR VARIANCES. $750 SEEMS LIKE A LOT FOR A PROCESS THAT NEARLY ALWAYS RESULTS IN APPROVAL AND APPEARS TO HAVE VERY FEW CRITERIA.

(3) 5% TURN OUT OF 100 AFFECTED PROPERTIES. IS THIS REALLY A HOT ISSUE (OKAY, ANOTHER 5% HAD A CONFLICT)

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:

What neighborhood do you live in?

Centennial II

Have you been impacted by the lot coverage standard?

Yes

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

Either is ok w/me.

☒ **Increase the lot coverage standard in my neighborhood**

☒ **Remove the lot coverage standard**

Comments or other ideas:

Ideas:

① Treat decks separately from enclosed w/walls space. I would imagine most of the frustration is around decks + sheds.

② Instead of a fixed % for each neighborhood, use the %age of actual house (without other structures incl decks) to lot size. Each house will have their own % and then can add 1 or 2% to that. Otherwise if you change the standard to 30% then all current houses that are over 35% won't ever be able to have a shed or slightly larger deck.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:

Camilla Donnelly

What neighborhood do you live in?

Behind the fences

Have you been impacted by the lot coverage standard?

Yes - we wanted to build a wing for our old age and have our son & family live in our house and care for us. But not workable w/ Zoning

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☑ **Increase the lot coverage standard in my neighborhood**
- ☐ **Remove the lot coverage standard**

Comments or other ideas:

If you limit the footprint then people are allowed to build up, and that may ruin views. Maybe it would be better to increase lot footprint size. Also we have a water shortage - the more yard you have the more watering you do. A large yard is hard to zero scape.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name:
Jacqueline "Jacque" Johnson

What neighborhood do you live in?
Louisville North, Historic (231 Vulcan St)

Have you been impacted by the lot coverage standard?
Not to my knowledge, but I do have the smallest house on the block.

Do you have a preferred alternative at this time and why?

- [x] **Keep things as they are and continue to process variances**
- [ ] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:
However, this is not affecting my neighborhood. I am concerned that this coverage standard could be removed for all of Louisville. It takes quality of living (which is very high in my part of town) would definitely be affected by "developer McMansions" referred to tonight, if this tends to make that permissable.
I've lived in Louisville for 27 years & love it here!
Thank you for all the info tonight

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO · SINCE 1878

Name: HENK VANDENBERGH

What neighborhood do you live in?

SADDLE RIDGE

Have you been impacted by the lot coverage standard?

NO, UNLESS YOU COME TELL ME TO REMOVE MY GARAGE ☺

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☒ **Increase the lot coverage standard in my neighborhood**

☐ **Remove the lot coverage standard**

Comments or other ideas:

BE CAREFUL. I HAVE A 7100 FT LOT, 30% WOULD BE A GOOD TARGET (THAT'S MY %).
BUT BRINGING IT ALSO TO 30% FOR 12.000 FT LOTS?

IT APPEARS TO ME THAT THE CHANGE TO 20% IN 1996 WAS MEANT FOR 12.000, WITH 7000 FALLING THROUGH THE CRACKS.
CHANGING THEM ONLY 7000 FT TO 30% THEN SOUNDS LIKE A FAIR SOLUTION.

THANK YOU!
GREAT MEETING

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO · SINCE 1878

Name: Betty Simpson bettysimpson@usa.net

What neighborhood do you live in?
Centennial Valley #3?

Have you been impacted by the lot coverage standard?
NOT UNTIL I learned that my footprint is 25%+ of my lot, from your mailing

Do you have a preferred alternative at this time and why?

- ☐ **Keep things as they are and continue to process variances**
- ☒ **Increase the lot coverage standard in my neighborhood**
- ☐ **Remove the lot coverage standard**

Comments or other ideas:
I definitely want to be notified of future actions and/or meetings.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Francis Lamb

What neighborhood do you live in?
Grove 1066 Meadow

Have you been impacted by the lot coverage standard?
Not yet - but as a one level home we exceeded the standard as built in 1989

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

A ☑ **Increase the lot coverage standard in my neighborhood**

B ☐ **Remove the lot coverage standard**

Comments or other ideas:
The variance process should be rare. 30% for RE would be more reasonable.

Thank you!

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO · SINCE 1878

Name:
Tom and Mary Walker

What neighborhood do you live in?
★ Centennial #6 (lot 65?) 21%+ vs 21%

Have you been impacted by the lot coverage standard?
yes! & My neighborhood has ∅ lot storage bldg tolerances (and relatively small lots) and we all are out of compliance. I would like to lengthen my set back garage (3rd stall) for storage for a (7' Colorado teardrop) and bikes. = ≈ 24% to increase property use, ~~addr~~ appearance and value. Now, it will take $ & time & discourages desire to improve my home.

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☒ **Increase the lot coverage standard in my neighborhood** 30%

☐ **Remove the lot coverage standard**

Comments or other ideas:
★ I would appreciate an increased tolerence of 25-30%. Setback only & 50% coverage is not a good idea for all but the smallest urban concentrated multiplex dwellings. (not good for Centennial #6) >12,000 ft² Larger lot sizes would be more attractive with smaller tolerences. ★ Ranches look better @ a higher % lot coverage. Keep RE for a faster approval process preserving setbacks.
Our neighborhood has many old, deteriorating decks and patios. We need to facilitate these up grades. My intended home improvements will only add to the attractiveness, utility and home value. Please don't add $1-2,000 cost and time to my project; increase my non-varience tolerence to 30%. Let me know ASAP.

$ to improve property value, encourage below

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name:
JANE M. COYLE

What neighborhood do you live in?
173 S. CARTER LN

Have you been impacted by the lot coverage standard?
NOT YET BUT IN THE PLANNING STAGE OF DOING AN ADDITION

Do you have a preferred alternative at this time and why?

- [ ] **Keep things as they are and continue to process variances**
- [x] **Increase the lot coverage standard in my neighborhood**
- [x] **Remove the lot coverage standard**

Comments or other ideas:
NOT SURE AT THIS TIME WHICH SOLUTION WILL BENEFIT ME THE BEST

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Jeffrey Hall

What neighborhood do you live in?
Centennial Valley #3

Have you been impacted by the lot coverage standard?
YES

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances**

☒ **Increase the lot coverage standard in my neighborhood**

☐ **Remove the lot coverage standard**

Comments or other ideas:
I would be open to a stepped approach. My lot is 6600 sq ft, so well below the 12,000 ft² minimum. If the % footprint could be increased to 30%-35% for smaller lots and 25% for for larger lots, I think that would be fair

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
GREG SIMPSON

What neighborhood do you live in?
SUNNYSIDE ST

Have you been impacted by the lot coverage standard?
NO - WE'RE IN RL

Do you have a preferred alternative at this time and why?

☐ **Keep things as they are and continue to process variances** MAYBE

☐ **Increase the lot coverage standard in my neighborhood** MAYBE

☐ **Remove the lot coverage standard** NO

Comments or other ideas:
IF COVERAGE IS INCREASED THE CONCERN SHOULD BE NOT ONLY LOT COVERAGE BUT WHAT STRUCTURES ARE ALLOWED WITHIN THAT COVERAGE - A TWO STORY ADDITION MIGHT COMPLY JUST THE SAME AS A LARGER DECK AND A SHED BUT WOULD HAVE A VERY DIFFERENT IMPACT ON NEIGHBORHOOD CHARACTER.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
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Name:
Laura Berggren

What neighborhood do you live in?
Centennial II

Have you been impacted by the lot coverage standard?
I have been worried about the ability to care for my mother in the future. She would need a ground level addition bedroom. Property is too expensive to move within Louisville - so I would be forced to give up my home town of 25 yrs.

Do you have a preferred alternative at this time and why?

- [ ] **Keep things as they are and continue to process variances**
- [x] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:
With most of Louisville having smaller yards - lot thresholds don't seem fair.

Thank you for sharing your feedback. The information you provide will help determine possible changes.

City of Louisville
COLORADO • SINCE 1878

Name:
Karen Lamb

What neighborhood do you live in?
Summerhill / 1016 Meadow Ct

Have you been impacted by the lot coverage standard?
Not yet but we are non-compliant
30% would be a fair compromise

Do you have a preferred alternative at this time and why?

- [ ] **Keep things as they are and continue to process variances**
- [x] **Increase the lot coverage standard in my neighborhood**
- [ ] **Remove the lot coverage standard**

Comments or other ideas:

While we have no plans to expand or sell, I think this would limit us if we did either. I have a large ranch because of disability issues, and this is the first we have heard about this. I do thank you for hosting this meeting and providing information

Project Report

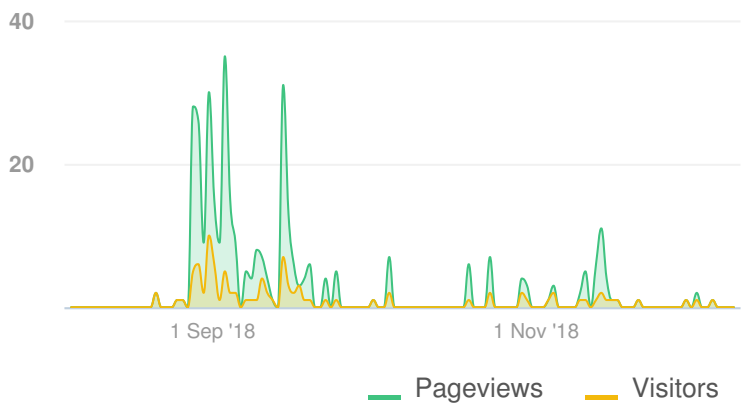
01 August 2018 - 04 December 2018

Engage Louisville CO

Residential Estate Zone District Lot Coverage

engagement hq by Bang the Table

Visitors Summary



Highlights

TOTAL VISITS	MAX VISITORS PER DAY	NEW REGISTRATIONS
105	10	1

ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
5	53	86

Aware Participants	86
Aware Actions Performed	Participants
Visited a Project or Tool Page	86

Informed Participants	53
Informed Actions Performed	Participants
Viewed a video	0
Viewed a photo	0
Downloaded a document	38
Visited the Key Dates page	4
Visited an FAQ list Page	41
Visited Instagram Page	0
Visited Multiple Project Pages	49
Contributed to a tool (engaged)	5

Engaged Participants			5
Engaged Actions Performed	Registered	Unverified	Anonymous
Contributed on Forums	0	0	0
Participated in Surveys	2	0	3
Contributed to Newsfeeds	0	0	0
Participated in Quick Polls	0	0	0
Posted on Guestbooks	0	0	0
Contributed to Stories	0	0	0
Asked Questions	0	0	0
Placed Pins on Places	0	0	0
Contributed to Ideas	0	0	0

ENGAGEMENT TOOLS SUMMARY

0	3	0	0	0
FORUM TOPICS	SURVEYS	NEWS FEEDS	QUICK POLLS	GUESTBOOKS

0	0	1
STORIES	Q&A S	MAPS

Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Comments	Published	11	2	0	3
Survey Tool	Comments	Draft	0	0	0	0
Survey Tool	Comments	Draft	0	0	0	0

INFORMATION WIDGET SUMMARY

5	0	0	1	0
DOCUMENTS	PHOTOS	VIDEOS	FAQS	KEY DATES

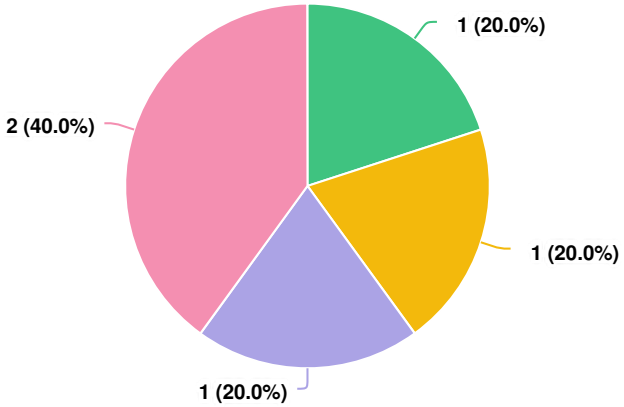
Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Faqs	faqs	41	43
Document	RE Neighborhoods map	30	31
Document	Lot Coverage Example	12	12
Document	Memo to Planning Commission 5.10.18	7	9
Document	Memo to City Council_July 10	3	3
Document	Draft Ordinance 10.23.18	0	0
Key Dates	Key Date	4	4

ENGAGEMENT TOOL: SURVEY TOOL

Comments

VISITORS 11	CONTRIBUTORS 5	CONTRIBUTIONS 5

What neighborhood do you live in?

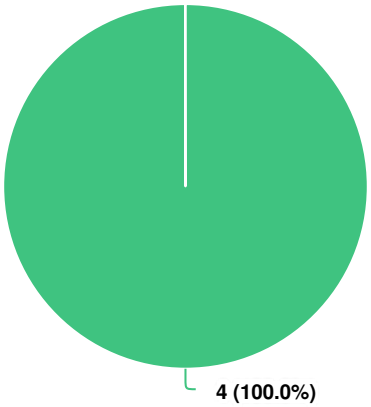


Question options

- Hilltop
- Pine Street Park
- Saddleback
- Other neighborhood in Louisville

Optional question (5 responses, 0 skipped)

Have you been impacted by the lot coverage standard on your property?



Question options

- No

Optional question (4 responses, 1 skipped)

City of Louisville
COLORADO • SINCE 1878

Planning Commission
Meeting Minutes
May 10, 2018
City Hall, Council Chambers
749 Main Street
6:30 PM

Call to Order – Brauneis called the meeting to order at 6:32 PM

Roll Call was taken and the following members were present:

Commission Members Present:	Steve Brauneis, Chair David Hsu, Vice Keaton Howe Dietrich Hoefner Jeff Moline
Commission Members Absent:	Debra Williams, Secretary Tom Rice
Staff Members Present:	Rob Zuccaro, Dir of Planning & Building Safety Kristin Dean, Principal Planner Lisa Ritchie, Associate Planner Amelia Brackett, Planning Clerk

APPROVAL OF AGENDA

Moline moved and Hsu seconded a motion to approve the May 10, 2018 agenda. Motion passed by voice vote.

APPROVAL OF MINUTES

Hoefner abstained due to his absence at the last meeting. Brauneis forwarded the approval to the next meeting due to lack of a quorum.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

NEW BUSINESS – DISCUSSION/DIRECTION

RE Zone District Code Amendment – Staff requests that Planning Commission discuss possible options for a code amendment related to Residential Estate lot coverage standards.

- Applicant and Representative: City of Louisville
- Case Manager: Lisa Ritchie, Associate Planner

Ritchie stated that City Council had requested staff evaluate the Residential Estate Zone District (RE) standards in the Louisville Code under the City Council Work Plan for 2018. Staff presents this as discussion and direction (no action) from the Planning Commission related to amending the Residential Estate Zone Districts (RE) standards.

Ritchie provided background on the RE zone distinction. Louisville Municipal Code Section 17.12.040 established Yard and Bulk Standards, including setbacks and building heights,

among others. At that time, the City had approved 20% lot coverage paired with a 12,000 square foot minimum lot size.

There are about 1,785 residential properties zoned RE in Louisville. They consist of 27 major subdivisions plus a handful of replats platted between 1959 and 1995. The majority of the neighborhoods have PUDs, but four of them do not: Scenic Heights, Louisville North, Continental View Estates, and Ridgeview. In 1996, the Code was amended to require yard and bulk standards in the LMC apply when a PUD is silent, but staff did not begin applying this amendment until 2012. The result has been to require variances whenever property-owners want to make changes to their homes. Between 2012 and 2018, staff processed 44 variances – 22 administrative and 22 through the Board of Adjustment. All but one was approved, with lot coverage ranging from 21% to 34% coverage.

Ritchie showed data for existing lot sizes, divided into conforming and nonconforming based on the 20% maximum lot coverage allowed in RE. The data did not include decks, even though decks higher than 30 inches count as part of the lot coverage. That means that some that were shown as conforming were likely nonconforming.

The 2018 City Council Work Plan addressed RE zoning due to the undue burden on homeowners produced by the variance process. After the Commission meeting, staff will conduct public outreach and bring back feedback and more information to the Commission. From there, staff will bring the Commission's recommendations to Council.

Ritchie presented two possible scenarios for the Commission to consider. The first scenario was to rezone properties to another zone district. Challenges included that the neighborhoods and PUDs would not be uniform with respect to lot size and lot coverage, resulting in non-conformities. Additionally, the City cannot rezone to RL without amending the Code. Finally, the RM zone district would allow two units on all lots greater than 7,000 square feet, which could change the character of the neighborhoods currently zoned RE.

The second scenario would amend the RE Lot Coverage Standard. This scenario would allow for different standards based on lot size, similar to Old Town Overlay. The intent was to significantly reduce the number of properties with non-conformities. With this scenario, staff examined a number of options.

- Increase lot coverage allowance to 30% for all lots less than 8,000 square feet, resulting in a conformity rate of 83%.
- Increase lot coverage to 30% for all lots less than 9,000 square feet, resulting in a conformity rate of 88%.
- Increase lot coverage allowance to 30% for all lots less than 10,000 square feet, resulting in a conformity rate of 91%.
- Increase lot coverage allowance to 30% for all lots less than 11,000 square feet, resulting in a conformity rate of 94%.
- The final two options involve a more graduated allowance, similar to the Old Town Overlay. The non-conformities are a little higher, but staff believes it might help preserve neighborhood character better than some of the other options.
    - Increase lot coverage allowance to 30% for all lots less than 7,000 square feet and 25% for lots 7,000 to 10,000 square feet. This would result in an 86% conformity rate.
    - Increase lot coverage allowance to 30% for all lots less than 8,000 square feet and 25% for lots 8,000 to 11,000 square feet, resulting in a conformity rate of 90%.

Brauneis asked if any of the commissioners' homes would be affected by the zoning changes. None would be.

Moline suggested that homeowners might appreciate a graphic depiction for what the 20% coverage would look like on a typical lot in the public outreach material. He asked if staff felt that RE district was the one that needed the most attention or if there were others that needed attention.

Ritchie replied that the other districts had fewer and more appropriate variance requests.

Zuccaro added that the RE zone is unique. When the buildings were constructed in the 1980s and '90s, everyone probably assumed that the buildings were conforming. It was not until 1996 and afterwards that the houses became out of compliance. Staff does not want to do something that greatly affects neighborhood character. However, a huge number of residents in the City want to make improvements to their property, but they're already nonconforming.

Ritchie added that today, small home improvements are increasingly common. Using the setback restrictions in RE alone could generally result in 50% lot coverage, which seemed to be too high for a cap.

Moline responded that there were also interesting new trends about homeowners preferring yards versus larger homes.

Hoefner stated that the new restrictions should consider the people who were already in RE. Those people spent a lot of money to live in Louisville and most people do not check zoning codes before buying their homes. For those people, "nonconforming" would not sound good. He noted that affordable housing may come up as a related issue in the Council meeting. He added that there was a culture change around wanting yards and grass, which he thought should be up to the person who bought the house.

Brauneis stated that the process should be smoother, but the City had to balance that with the impact on the neighborhood.

Moline asked Brauneis if the impact felt like a physical impact.

Brauneis gave the example of a large building on a small property, which might be desirable on a personal level but not on a neighborhood level. Additionally, there was the environmental concern that a growth in house size could increase the amount of space that needed to be heated and cooled, even if more people would not necessarily be living in these houses.

Moline responded by asking if the storm water regulations were included in the original zoning restrictions.

Zuccaro responded that you could pave 100% of your lot with concrete and that would not affect your zoning compliance. Lot coverage only addressed structures over 30 inches and covered patios.

Hsu asked for a more encompassing goal for the RE change than reducing nonconformities, since there seemed to be more factors to consider. He suggested considering neighborhood character. He asked if there was a fee for variances.

Ritchie explained the variance process. Most of the time, people submit a building permit not knowing they have an issue and then staff has to let them know that they have a problem. Administrative variances carry around a $95 fee, but when the variance needs to go to the Board of Adjustment it goes up to around $750. She added that when around 99% of the variances get approved, it seemed like the process could be simplified.

Brauneis asked that staff provide additional information on acronyms and jargon for public outreach materials.

Zuccaro noted that the older neighborhoods could be grandfathered in to avoid being affected by the new restrictions, which might help address individual neighborhoods' concerns.

Moline wondered if there was an underlying issue that drove the City to abolish the zone districts. He asked if the 1994 ordinance explains why the City wanted to restrict changes at that time.

Ritchie stated that Council did it in the same ordinance that established the new single-family zones to replace the old ones. They may have wanted to reduce the lot coverages overall.

Hsu suggested that there were some mathematical ways to avoid punishing homeowners who are a few square feet over.

Brauneis asked for public comments.

Sheree Burcar, 1881 West Choke Cherry Drive in Continental View Estates, wanted to learn more about what was at stake. She stated that Continental View had an HOA, but the HOA documents did not seem to have much about zoning. She stated that one of her concerns was having large houses on small lots. She added that different neighborhoods may need different solutions.

Hsu wondered if there was a way to avoid large houses specifically in order to preserve the character of the neighborhood, maybe by putting restrictions on the growth of the house over time. He suggested putting this out as an option during the open houses.

Brauneis added that more examples of what it would look like if these options played out would be helpful.

Howe stated that he saw both sides of the issue. He noted that the City needed to be responsive to affordable housing, when growing families could not afford to buy new homes and turned to expanding their existing homes instead. He added that they needed to be consistent with the previous variances that have been approved. He asked for more information on the 30% number. Howe suggested that the discussion consider the disadvantages of increasing maximum coverage, if homeowners should be restricted in improving their homes and properties, and if the 30% number was the right one to start with. Howe showed that if using 30% as the maximum across the board would produce over 90% conformity. People could build larger homes, but they would also be on larger lots, so you would still be abiding by the Code.

Ritchie responded that the 30% referenced the administrative variance threshold in the Code, which allows lot coverage of up to 30% for lots less than 8,000 square feet zoned RE. Ritchie added that the first option would make the variance threshold permanent. This would take away neighborhood input, making everything by-right, but it mirrors the current threshold.

Brauneis stated that he did not think the main push was to bring lots out of non-conformity.

Ritchie stated that one of the goals was to reduce non-conformities based on Council's request, while honoring neighborhood input and character.

Moline clarified that one of the issues seemed to be that there is a burden on staff to deal with non-conformities.

Zuccaro responded that there was an administrative burden, but that their concern was the burden on City. The non-conformity rate prohibits any additions to buildings. For example, when owners want to move a nonconforming structure, the way the Code is written they can't even if it does not add to the overall lot coverage.

Hoefner stated that policy had already approved these houses and the law should match up with what was allowed in policy.

Hsu suggested that the restrictions could be phrased in terms of added overall square footage. The numbers on the scatterplot showed that each restriction ended up being about 2,400 additional square feet above the existing square footage no matter the size.

Hoefner voiced his support for Hsu's idea. He suggested adding a color on the scatterplot for approved variances. If they're mostly in the nonconforming area already, then they would not need to be brought into the fold.

Howe noted that increasing lot coverage would not help the issue of affordability.

Moline asked Hsu if there would be a fixed square footage.

Hsu stated that would be the case unless your house was over 12,000 square feet or if you're less than 8,000.

Howe reminded the Commission that the data currently did not reflect the decks or patios.

Ritchie stated that staff did not know if they could get deck data, but they would try.

Hsu stated that it would be really helpful and that staff could reflect estimates with mirror bars.

Brauneis asked for additional comments of staff.

Moline asked what the next steps would be. He thought an open house would be the best next step for public outreach.

Ritchie stated that the open house would probably be best.

Brauneis asked if there would be a significant public posting in that case.

Zuccaro stated that there would probably be direct contact through postcards for affected properties.

Brauneis added that neighbors would also be an important group to contact. He also liked the webpage idea.

Sheree Burcar, 1881 West Choke Cherry Drive, stated that HOA guidelines might be impacted. She suggested that decks could be handled differently than other kinds of additions to homes. She added that the meeting had been very educational.

Zuccaro responded that staff could explore treating decks differently than other types of additions to homes.

STAFF COMMENTS

Brauneis asked for staff comments. He asked for an update on water works and reseeding from staff.

Zuccaro stated that they could ask Public Works for an email update for the Commission.

Zuccaro updated the Commission on the Design Guidelines, noting that there was a survey online at engagelouisvilleco.org for public comment on the guidelines and sign code. He asked if anyone had discussion suggestions for the joint session with City Council on June 12th.

Hsu stated that he would not be at the June 12th meeting. He suggested that the Commission would benefit from guidance on how much policy direction Council wanted from the Commission. Hoefner and Brauneis concurred.

Zuccaro also updated the Commission on the Transportation Master Plan, noting that public outreach would start in June or July.

Zuccaro added that it was possible that there would be no agenda items for the June meeting. Staff has had a low number of applications over the past few months.

Howe asked if sustainability and building efficiency could be a topic for the joint meeting with Council.

Brauneis suggested that the Commission be briefed on the Sustainability Advisory Board's work.

Zuccaro responded that updating the building codes and making a Transportation Master Plan were recommendations from the SAB.

ITEMS TENTATIVELY SCHEDULED FOR THE REGULAR MEETING JUNE 12, 2018

None.

Adjourn:
Hoefner made motion to adjourn, Howe seconded. Brauneis adjourned meeting at 7:45 PM.