

City of Boulder
Cannabis Licensing and Advisory Board
City Resource Materials

Last updated on November 3, 2020

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Part 1-
Boulder Revised Code (B.R.C.) formation of
Cannabis Licensing and Advisory Board

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ORDINANCE 8338

AN ORDINANCE AMENDING CHAPTER 2-3, BY ADDING A NEW SECTION 2-3-25, "MARIJUANA LICENSING AUTHORITY," B.R.C. 1981, PERTAINING TO THE COMPOSITION, DUTIES AND POWERS OF A NEW CITY BOARD RELATED TO MARIJUANA ISSUES, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A new Section 2-3-25, "Marijuana Licensing Authority," B.R.C. 1981, is added as follows:

2-3-25. - Marijuana Licensing Authority.

- (a) The City of Boulder Marijuana Licensing Authority shall consist of seven members who are at least twenty-one years of age, all of whom are city residents, appointed by City Council for five-year terms. At the time of appointment, two members will be marijuana business owners or representatives of such owners and two members shall have a connection to the health or education field. The remaining members shall be at large. Up to two ex officio non-voting members may be appointed by the city council as provided below. The Authority members who are first appointed shall be designated to serve for staggered terms so that the term of one Authority member expires each year.
- (b) City council has discretion to appoint two non-voting ex officio members who will advise the Authority. These positions are intended for non-city residents from the candidate pool, who would otherwise qualify but are prohibited from appointment because of the resident status requirement.
- (c) The city manager serves as secretary to the Authority. The secretary may be known as the licensing clerk, and shall serve as the Authority's agent for all functions.
- (d) Four members shall constitute a quorum. An affirmative vote of a majority of the members present is necessary to authorize any action of the Authority.
- (e) The Authority shall be responsible for both advisory and licensing duties as set forth in this section. Initially the Authority's duties shall be limited to an advisory role.

1 The licensing duties are to be phased in over time. The phase in period shall be no
2 less than six months and no longer than two years from the date of the Authority's
3 first meeting after formation. The timing of the phasing shall be determined by the
4 Authority. The Authority will establish guidelines for determining what type of
5 license matters will come before the Authority and which will be handled
6 administratively by city staff. The Authority will determine the timing and scope of
7 its licensing duties during this transition phase. All licensing duties will continue to
8 be handled by the city manager until the Authority formally determines otherwise.

6 (f) The Authority shall have the ability to issue subpoenas in quasi-judicial proceedings
7 only.

7 (g) Prior to making any recommendation or taking action, the Authority shall hold a
8 public hearing.

9 (h) The Authority's advisory functions are:

10 (1) Generally, to promote the Boulder community's interests and values in the local
11 regulation of marijuana, while considering the downstream consequences of such
12 regulations on the community and on public health and safety while supporting
13 economic development and congruence between local ordinances and state laws.

12 (2) To advise the city council and city manager on marijuana issues, strategies, goals
13 and policies;

14 (3) To study and make recommendations to council and the city manager regarding
15 marijuana related issues raised by council, city manager, state legislative changes,
16 the public, or the Authority;

16 (4) To prioritize and continue any outstanding work from the Marijuana Advisory
17 Panel;

17 (5) To address issues related to jurisdictional parity; and

18 (6) To follow the purpose and intent in Chapters 6-14 and 6-16, B.R.C.

19 (i) The Authority's licensing functions may include:

20 (1) To grant or refuse applications for licenses to operate a medical or recreational
21 marijuana business as prescribed by Chapter 6-14, "Medical Marijuana" and
22 Chapter 6-16, "Recreational Marijuana," B.R.C. 1981. The Authority's
23 responsibilities shall not include suspension, revocation, or imposition of fines as
24 set forth in subsections 6-14-14 and 6-16-14 B.R.C. 1981. The city manager shall
25 administer such matters;

24 (2) To perform licensing functions in a manner necessary to carry out the legislative
25 purposes and requirements of the state and city marijuana licensing laws; and

1 (3) To perform all other responsibilities that the council may delegate to it.

2 (j) The city manager shall issue all licenses granted by the Authority upon receipt of the
3 completed application and the operating fee, criminal background fee, annual license
4 fee, and any other applicable fees, as required by Section 4-20-64 "Medical
5 Marijuana Businesses" and 4-20-67 "Recreational Marijuana Businesses," B.R.C.
6 1981, and meeting the requirements of 6-14-5(f) "Approval Requirements" or 6-16-
7 6(f) "Approval Requirements" B.R.C. 1981.

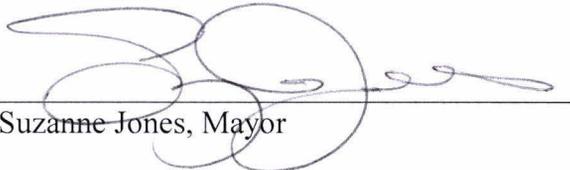
8 (k) The Authority shall not perform any administrative functions unless expressly
9 provided in this code.

10 (l) The Authority shall not involve itself in any review under the land use regulations,
11 Title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city
12 council or the planning board.

13 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
14 the residents of the city, and covers matters of local concern.

15 Section 5. The city council deems it appropriate that this ordinance be published by title
16 only and orders that copies of this ordinance be made available in the office of the city clerk for
17 public inspection and acquisition.

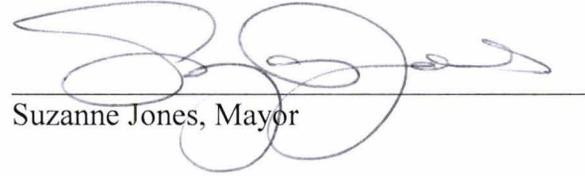
18 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
19 TITLE ONLY this 6th day of August, 2019.

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21 _____
22 Suzanne Jones, Mayor

23 Attest:

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25 _____
26 Lynette Beck, City Clerk

1 READ ON SECOND READING, PASSED AND ADOPTED this 20th day of August,
2 2019.

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5 _____
6 Suzanne Jones, Mayor

7 Attest:

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10 Lynnette Beck, City Clerk

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ORDINANCE 8384

AN ORDINANCE AMENDING SECTION 2-3-25, "MARIJUANA LICENSING AUTHORITY," B.R.C. 1981, BY CHANGING THE AUTHORITY'S NAME TO CANNABIS LICENSING AND ADVISORY BOARD AND CLARIFYING ITS MEMBER TERMS AND LICENSING FUNCTIONS; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 2-3-25 "Marijuana Licensing Authority" is amended to read as follows:

2-3-25. - Cannabis Licensing and Advisory Board~~Marijuana Licensing Authority.~~

- (a) The City of Boulder Cannabis Licensing and Advisory Board~~Marijuana Licensing Authority~~ shall consist of seven community members who are at least twenty-one years of age, all of whom are city residents, appointed by City Council for five-year terms. At the time of appointment, two members ~~wi~~shall be marijuana or hemp business owners or representatives of such owners and two members shall have a connection to the health or education field. The remaining members shall be at large. Up to two ex officio non-voting members may be appointed by the ~~e~~City ~~e~~Council as provided below. The Advisory Board~~authority~~ members who are first appointed shall be designated to serve for staggered terms so that no more than two the terms of one Advisory Board~~authority~~ member expires in one~~each~~ year. One member shall serve one year, two members shall serve two-year terms, two members shall serve three-year terms and two shall serve five-year terms.
- (b) City council has discretion to appoint two non-voting ex officio members who will advise the Advisory Board~~authority~~. These positions are intended for non-city residents from the candidate pool, who would otherwise qualify but are prohibited from appointment because of the resident status requirement.
- (c) The city manager serves as secretary to the Advisory Board~~authority~~. The secretary may be known as the licensing clerk, and shall serve as the Advisory Board~~authority~~'s agent for all functions.
- (d) Four members shall constitute a quorum. An affirmative vote of a majority of the members present is necessary to authorize any action of the Advisory Board~~authority~~.

- 1 (e) The Advisory Board shall be responsible for both advisory and licensing duties as set
2 forth in this section. Initially the Advisory Board's duties shall be limited to an
3 advisory role. The licensing duties are to be phased in over time. The phase in period shall be
4 no less than six months and no longer than two years from the date of the Advisory
5 Board's first meeting after formation. The timing of the phasing shall be determined
6 by the Advisory Board. The Advisory Board will establish guidelines for
7 determining what type of license matters will come before the Advisory Board and
8 which will be handled administratively by city staff. The Advisory Board will
9 determine the timing and scope of its licensing duties during this transition phase. All
10 licensing duties will continue to be handled by the city manager until the Advisory
11 Board formally determines otherwise.
- 12 (f) The Advisory Board shall have the ability to issue subpoenas in quasi-judicial
13 proceedings only.
- 14 (g) Prior to making any recommendation or taking action, the Advisory Board shall hold
15 a public hearing.
- 16 (h) The Advisory Board's advisory functions are:
- 17 (1) Generally, to promote the Boulder community's interests and values in the local
18 regulation of marijuana and hemp, while considering the downstream consequences of
19 such regulations on the community and on public health and safety while supporting
20 economic development and congruence between local ordinances and state laws.
 - 21 (2) To advise the city council and city manager on marijuana and hemp issues, strategies,
22 goals and policies;
 - 23 (3) To study and make recommendations to council and the city manager regarding
24 marijuana and hemp related issues raised by council, city manager, state legislative
25 changes, the public, or the Advisory Board;
 - (4) To prioritize and continue any outstanding work from the Marijuana Advisory Panel;
 - (5) To address issues related to jurisdictional parity; and
 - (6) To follow the purpose and intent in Chapters 6-14 and 6-16, B.R.C. and any subsequently
adopted related code provisions.
- (i) The Advisory Board's licensing functions may include:
- (1) To grant or refuse applications for licenses to operate a medical or recreational marijuana
business as prescribed by Chapter 6-14, "Medical Marijuana" and Chapter 6-16,
"Recreational Marijuana," B.R.C. 1981. The Advisory Board's responsibilities
shall not include suspension, revocation, or imposition of fines as set forth in Sections 6-
14-14 and 6-16-14 B.R.C. 1981. The city manager shall administer such matters;
 - (2) To perform licensing functions in a manner necessary to carry out the legislative purposes
and requirements of the state and city marijuana licensing laws; and
 - (3) To perform all other responsibilities that the council may delegate to it.
- (j) The city manager shall issue all licenses granted by the Advisory Board upon receipt

1 of the completed application and the operating fee, criminal background fee, annual license
2 fee, and any other applicable fees, as required by Sections 4-20-64 "Medical Marijuana
3 Businesses" and 4-20-67 "Recreational Marijuana Businesses," B.R.C. 1981, and meeting the
4 requirements of Subsection 6-14-5(f) "Approval Requirements" or 6-16-6(f) "Approval
5 Requirements" B.R.C. 1981.

6 (k) The Advisory Board authority shall not perform any administrative functions unless expressly
7 provided in this code.

8 (l) The Advisory Board authority shall not involve itself in any review under the land use
9 regulations, Title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city
10 council or the planning board.

11 Section 2. This ordinance is necessary to protect the public health, safety and welfare of
12 the residents of the city and covers matters of local concern.

13 Section 3. The city council deems it appropriate that this ordinance be published by title
14 only and orders that copies of this ordinance be made available in the office of the city clerk for
15 public inspection and acquisition.

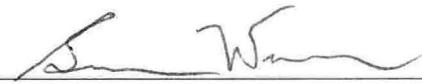
16 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
17 TITLE ONLY this 18th day of February 2020.

18 
19 _____
20 Sam Weaver,
21 Mayor

22 Attest:

23 
24 _____
25 Lynnette Beck,
City Clerk

1 READ ON SECOND READING, PASSED AND ADOPTED, this 3rd day of March 2020.

2 
3 _____
4 Sam Weaver,
5 Mayor

6 Attest:

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8 _____
9 Lynnette Beck,
10 City Clerk

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Part 2-
**Board and Commission Member Orientation, Board
Quorum, and Code of Conduct and Conflicts of Interest**

CLAB Meeting Ground Rules

Distributed 11-2-20

Ground Rules for Meetings

- Assume best intent from others
- No interruption of other speakers except for procedural issue
- Avoid characterizing someone else's position as "bad" or "wrong" or "naïve"
- Avoid side conversations; this can be distracting for everyone
- Speak respectfully
- Characterize your own perspective, understanding, and interests; let others do the same
- Respect the time of the group; speak briefly and on-topic
- Limit comment and discussion to the scope of agenda item;
- Pay attention to meeting minutes to ensure items are being captured accurately
- Let other participants talk *once* on a topic before you talk *twice*
- Recognize that everyone has different levels of background in particular topics, and therefore:
 - Provide context
 - Refrain from using pronouns – use instead the proper name of "it" or "they" about which you are speaking
 - Try to be clear and succinct to avoid confusion by others
 - Minimize compound questions
 - Use terms that have been defined and
 - Be as specific as possible in your statements and questions

GUIDING PRINCIPLES FOR INTERACTION AMONG COUNCIL, BOARDS, COMMISSIONS AND CITY STAFF

Council appreciates deeply the time, specialized knowledge and commitment of members of City boards and commissions. Occasionally, awkward situations have arisen from the lack of clarity about roles and the lack of communication as to how to work seamlessly together. Council realized that articulating some basic principles to guide interactions among boards, commissions, staff and Council might help prevent some of these difficulties. The following guiding principals are offered from the Council in the spirit of partnership and a desire to create a good working relationship.

COUNCIL

1. City policies are established by the City Council. With the exception of limited circumstances (often charter-based), the role of boards and commissions is advisory to the City Council.
2. It is Council's desire to use boards and commissions as the first step for gathering community feedback on difficult and controversial issues as a means to creating viable policy options.
3. All policy expressions on national, international, statewide and county issues should come from Council and not individual boards and commissions. Boards and commissions may suggest that Council take policy positions by resolution but should not independently issue such resolutions.
4. Council members should refrain from discussion with board members any quasi-judicial issues coming before the board. For matters that are not quasi-judicial, Council members may discuss a point of view with board members but should clarify that this perspective may not represent the position of the Council as a whole.

BOARDS AND COMMISSIONS

5. Board and commission members who wish to explain or advocate positions to Council should identify themselves as board members and clarify whether they are speaking from a personal position or on behalf of the majority or minority position that the board has taken.
6. When members of a board or commission disagree about a given issue or policy, Council expects to be apprised of the disagreements and of the reasoning underlying the various points of view.
7. The City Manager is responsible for the budget recommendation to City Council. When a board or commission disagrees with the City Manager's budget, the City

Manager should be notified as a matter of courtesy prior to the board or commission members addressing Council.

CITY STAFF

8. Staff takes direction from the City Manager, except as authorized by the Charter. Boards and commissions may request research or other work of staff but, if the work requires more than what staff determines is reasonable, the board or commission, supported by a majority of members at a meeting, must make a direct request of the City Council.
9. City staff ultimately is responsible for supporting City Council. Council expects staff to provide the best professional judgment regarding issues and policies, whether or not boards and commissions agree with those professional judgments. Staff should inform Council when a board or commission disagrees with the staff's position and, when possible, explain the basis of that disagreement.
10. When several boards and commissions review elements of a given proposal or issue, staff reports to Council should reflect the perspectives of all reviewing boards and commissions.

In addition, the City maintains a Boards and Commissions website as an added resource to its boards and commissions. (www.bouldercolorado.gov, then select *Government*, select *City Council*, select *Boards and Commissions*.)

CITY OF BOULDER, COLORADO

Office of the City Attorney
Municipal Building
1777 Broadway
P.O. Box 791
Boulder, Colorado 80306
(303) 441-3020



MEMORANDUM

FROM: Tom Carr, City Attorney
TO: Board and Commission Members
DATE: April 27, 2020
SUBJECT: Public Meetings; Open Records; Boulder's Code of Conduct

Introduction

The City of Boulder relies heavily upon the members of the community who volunteer to work on its boards and commissions. Those who devote their time to service on these bodies are much appreciated. However, even though board and commission members are volunteers, they are also appointed city officials. As a result, a number of state and local laws apply to them and violation of those laws can have serious consequences. This memorandum attempts to summarize important provisions of those laws.

Role of Boards and Commissions

Boards and Commissions serve an important role advising the City Council. It is important to remember that the council is charged with making policy. The role of Boards and Commissions is to provide expertise and background on areas within their scope of responsibility. Council members pay close attention to the views expressed by the various Boards and Commissions. It is the City Council, however, that makes policy. Boards and Commissions are not expected to initiate policy changes, but to advise the City Council when changes might be needed. Some Boards and Commissions have additional responsibilities beyond the advisory role that are described in City Charter and the Boulder Revised Code. They include delegated decision-making authority over specific governmental decisions.

Open Meetings Law

The Open Meetings Law requires that all meetings of public bodies be open to the public. "Meetings" are defined to include "any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication." § 24-6-402(1)(b), C.R.S.

Re: Public Meetings; Open Records; Boulder's Code of Conduct

Whenever three or more members (or a quorum of the members, if fewer than three) of the "local public body" get together and public business is discussed or formal action may be taken, the gathering is a "meeting" and open to the public.

- *Notice for Public Meetings*

Members of the public cannot exercise their right to attend open meetings unless they know that meetings will occur. Therefore, the Open Meetings Law requires that the public must receive "full and timely notice" of any upcoming meeting. The statute prescribes the notice requirement as follows:

Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public....

The statute does not explicitly limit the kind of notice that is legally sufficient. However, it approves the practice of posting notice in a designated public place at least twenty-four hours before the meeting. In practice, in addition to posting a notice in the Municipal Building, the city publishes meeting dates in the Daily Camera and on the internet.

- *Public Meetings and Electronic Mail*

It is not uncommon for groups to make decisions by email or other means of electronic communication. However, in the government context an exchange of email messages or discussion via Facetime or Zoom can violate the Open Meetings Law. That is because if board or commission members engage in an electronic email discussion, a court may rule that they have engaged in a non-noticed public meeting. Under Colorado law, the public has a right not only to see a decision being made, but also to witness the process through which the decision is reached.

Usually, no open meetings problem exists if only two board or commission members communicate. Under state law, a meeting occurs when more than two members of a public body discuss the public's business. However, email presents dangers even when a board or commission member intends an email message to be received by only one other board or commission member. Because it is so easy to forward electronic mail, or copy and paste it into a new message, an email author can never be certain that the circulation of his or her message will stop with the original addressee.

Re: Public Meetings; Open Records; Boulder's Code of Conduct

The easiest way to deal with this issue is to do business at regularly scheduled and noticed public meetings. Electronic communications are convenient, but without advance planning and a great deal of care, they may run up against the legislative prohibition on the formulating of public policy in private. Thus, it is best if board and commission members refrain from discussing substantive matters outside of actual meetings.

When a member of a board or commission desires to communicate by email with another board or commission member, a practical step might be to prominently post within the communication a request that it not be forwarded to any other person. That may help insulate the sender from any alleged violation of the Open Meetings Law. However, it is doubtful that such a technique would have any impact upon the issue of whether the message would be subject to disclosure pursuant to the Open Records Act, which is briefly described in the next section.

Colorado Open Records Act

The Colorado Open Records Act requires that most documents generated in the course of government business be made available for public inspection upon request. The state statute defines "public records" very broadly. They include "all writings made, maintained, or kept" by agencies of government – including city government.

Electronic files (including email) are specifically included as "documents" under the law. As a result, almost all messages and documents created by officials during the course of government process are considered public documents. In fact, there is a specific provision in state law which mandates that if officials use electronic mail to discuss pending legislation or other public business among themselves, the electronic mail is subject to the law. § 24-6-402(2)(d)(III), C.R.S

On the other hand, not every email produced by a board or commission member is a public document. Private messages that are not related to municipal business are not covered by the disclosure law. Also, some documents may be confidential by virtue of legal privileges. For example, some communications with the City Attorney's Office might be covered by the attorney/client privilege.

- *Open Records and Home Computers*

Under some circumstances, email exchanged between board or commission members over private email networks may also be subject to disclosure pursuant to the Open Records Act.

If municipal officials exchange email messages from their home computers that discuss official city business or that are intended to influence the work of the board or commission, there is a good chance that those messages will be covered by the law. That means that if a member of the public requests them, the messages may have to be disclosed. If this kind of situation was presented to a court for resolution, the ultimate decision would probably turn on the nature and

Re: Public Meetings; Open Records; Boulder's Code of Conduct

purpose of the messages rather than upon which computer system was used to produce or receive the messages.

Code of Conduct

City staff and members of the city's many boards and commissions are governed by the provisions of the city's Code of Conduct. Those provisions are found in Chapter 2-7, sections 2-7-1 through 2-7-15 of the Boulder Revised Code (B.R.C.). In 2014, Council made significant changes to the Code of Conduct. Council's goal was to make the code more accessible and easier to understand.

The purpose of this part of the code is to protect the integrity of city government. The idea is to prohibit public officials from acting on matters in which they have conflicts of interest and to establish guidelines that encourage them to avoid any appearance of impropriety. The Code of Conduct promotes trust in government.

This memorandum summarizes important provisions of the Code of Conduct. However, board and commission members should read the entire Code of Conduct chapter. Obviously, if there is any inconsistency between this memorandum and the actual Code of Conduct language, the Code of Conduct language controls.

- *Prohibited Acts*

The code provides criminal sanctions for three violations. These are accepting bribes, profiteering, or using confidential information for financial gain. These prohibitions appear in section 2-7-2.

- *Expectations*

The code of conduct establishes ten expectations for city officials and employees. These expectations can be found in section 2-7-8. These expectations are broken into ten affirmative requirements and eighteen prohibitions. Section 2-7-8(e) requires officials and employees to behave as follows:

- (1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.
- (2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.
- (3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.

Re: Public Meetings; Open Records; Boulder's Code of Conduct

- (4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.
- (5) Act within the boundaries of his or her authority as defined by the city charter and code.
- (6) Treat colleagues and members of the public professionally and with courtesy.
- (7) Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the city, if the official or employee has any authority to exercise discretion over the business relationship.
- (8) Disclose any benefit he or she will receive from any matter requiring the exercise of discretion by the officer or employee.
- (9) Use city resources, facilities and equipment only for city purposes, except for reasonable incidental personal use that does not interfere with city business.
- (10) Disclose waste, fraud, abuse and corruption to appropriate authorities.

As you can see, council has incorporated some of the general concepts from the conflict of interest rules into the expectations section. That is, there is now an expectation that the official or employee will disclose relationships or benefits arising from a transaction. Section 2-7-8(f) prohibits officials or employees from doing any of the following:

- (1) Advocate or support any action or activity that violates a law or regulatory requirement.
- (2) Use his or her position or decision-making authority for his or her benefit.
- (3) Expend city funds for his or her personal use or benefit.
- (4) Misrepresent known facts in any issue involving city business.
- (5) Exercise authority or discretion in any matter in which he or she will benefit as a result of that exercise of authority or discretion.
- (6) Use city resources, facilities or equipment for personal profit, for outside business interests or to access any inappropriate material, except if viewing such material is a necessary and proper part of their duties.
- (7) Participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position with the city.

Re: Public Meetings; Open Records; Boulder's Code of Conduct

- (8) Supervise a relative in the performance of the relative's official powers or duties.
- (9) Compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- (10) Act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any employee, or an applicant for a position, including appointment to a board or commission, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (11) Solicit or accept anything of value from anyone doing business with the city.
- (12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment.
- (13) Use his or her public position to obtain a benefit for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship.
- (14) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest.
- (15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests impropriety, favoritism, or bias by the city or the official or employee.
- (16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, ***except that public officials¹ may identify themselves and their position as public officials supporting or opposing candidates or ballot measures.***
- (17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in for personal profit or advantage.

¹ Board and Commission members are "public officials."

Re: Public Meetings; Open Records; Boulder's Code of Conduct

- (18) Use city resources, facilities or equipment to support or oppose any political candidate or ballot measure.

It is important to note that the code formerly prohibited board and commission members from identifying themselves as such in political endorsements. Council decided to remove this prohibition. Section 2-7-8(f)(16) is the relevant section, which is quoted as number 16 above.

- *Limitations on Accepting Gifts*

The code provision about gifts appears in section 2-7-4.

The basic rule for board and commission members is that an appointee (or any relative of such an official) may not accept anything of value if:

- (1) The official is in a position to take official action with regard to the donor; or
- (2) The city has or is known to be likely to have a transactional, business, or regulatory relationship with the donor.

Questions that arise in this area generally involve a list of items that are not considered gifts for purposes of the code. Section 2-7-5 (b) contains the list as follows:

- (1) Campaign contributions permitted by law;
- (2) An unsolicited, occasional non-pecuniary gift of a maximum amount of \$65.00 or less in value;
- (3) A gift from a relative;
- (4) An award, publicly presented, in recognition of public service;
- (5) Reasonable expenses for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:
 - (A) The travel is for a legitimate city purpose;
 - (B) The travel arrangements are appropriate to that purpose;
 - (C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;

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(D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor;

(E) Prior to travelling, the public official informs the city council or the employee informs the city manager of the name of the party paying for the travel expenses and the reason for the travel; and

(F) After completing the travel, the public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.;

(6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and

...

The obvious intent of these provisions is to avoid actual graft or the appearance that special treatment from our local government can be purchased. Accepting gifts by government officials can be very problematic and it is strongly suggested that board and commission members who have any questions in this area contact the City Attorney's Office for specific feedback and suggestions.

- *Conflicts and Outside Employment*

Section 2-7-5 sets out some rules about outside employment. Under those rules, board and commission members are not to take official action with respect to a former employer for at least six months after they leave the job in which they worked for that employer.

Also, board and commission members are supposed to report existing or proposed outside employment or business interests that may affect their responsibilities. This notice must be in writing to the City Council.

Within thirty days after accepting a new job or business opportunity, board and commission members are to report any changes of employment or changes to outside business interests that may affect their responsibilities to the city.

- *Limitations on the Participation of Former Officials*

For twelve months following termination of office or employment, no former official may appear before, or participate in, the proceedings of a city board or commission on which he or she was a member. However, this limitation may be waived by the City Council.

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- *Limitations on Litigation by Former Appointed Officials*

No former official may bring a lawsuit against the city, or participate in a lawsuit in which the city is involved on behalf of any other person or entity, if the litigation involves a matter upon which the person took official action during his or her service. This rule applies for twelve months following termination of service with the city.

- *Employment of Relatives*

Generally, a board or commission member may not advocate for the appointment or hiring by the city of someone who is his or her relative. However, board and commission members may request the City Council to make such an appointment.

Also, it is permitted for the city to enter into transactions with companies, corporations or other business organizations that employ a relative of a city official if:

(a) The board or commission member does not participate in the hiring decision;

(b) Any business organization involved is a publicly-traded corporation that provides its services to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or

(c) The business organization has been doing business with the city for at least one year prior to the date the city official's relative became employed by it **and** the board or commission member's relative is not directly employed to work on matters involving the city and his or her compensation is not tied to the success of the outside business organization in obtaining business from the city.

- *Prohibition on Representing Others Before the City*

The general rule is that members of boards and commissions are not allowed to represent others in front of the board or commission on which they serve or before the City Council. It may, under some circumstances, also be improper for members of boards and commissions to represent others in front of other city groups or bodies. This is an important rule and if it is violated, violators may be removed from their board or commission or could even be criminally prosecuted.

Because this rule can be somewhat complicated in application, members of boards and commissions are urged to seek guidance from the City Attorney's Office before they represent another party before a city entity.

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- *The Manner in Which a Board or Commission Member is Supposed to Remove Him or Herself from Consideration of a Matter*

There is a formal procedure that a board or commission member should use when that member feels that he or she has a conflict of interest or that there would be an appearance of impropriety if he or she participated in a particular decision. § 2-7-10, B.R.C.

Under these circumstances, the board or commission member should either provide written notice of the conflict or disclose the conflict of interest on the record of a public meeting of the board or commission on which the person is a member. Then, the board or commission member must:

- (a) Refrain from voting upon or otherwise acting in an official capacity with regard to the transaction giving rise to the conflict or appearance of impropriety;
- (b) Physically absent himself or herself from the room in which the matter is being considered; and
- (c) Not discuss any matter related to such transaction with any other member of the council, board, commission, task force, or similar body of which the person is a member.

Conclusion

As noted earlier, some of the issues discussed in this summary can get a bit complex in specific situations. Therefore, new board and commission members are invited to set up an appointment with representatives of the City Attorney's Office to discuss these and related matters in more depth.

Attachments: Excerpts of the Boulder Revised Code

TITLE 2 – GOVERNMENT ORGANIZATION

Chapter 2-3 - Boards and Commissions

2-3-1. - General Provisions.

- (a) The city council:
 - (1) At a regular meeting before April shall appoint members to city boards and commissions, who are city residents not all of one gender identity;
 - (2) May remove any member by majority vote for conflict of interest violation, [191](#) any other violation of applicable law, regulation, or policy, nonattendance to duty, failure to attend three consecutive regularly scheduled meetings without a leave of absence approved by a majority of the board or commission, or any other cause; and
 - (3) Shall fill any vacancy for the remainder of its term.
- (b) Each city board or commission shall:
 - (1) Hold regular monthly meetings;
 - (2) Keep minutes of its meetings and records of its transactions, which are publicly available;
 - (3) Appoint a chair, vice-chair, and secretary (who may be a city employee);
 - (4) Conduct its meetings under the then current Robert's Rules of Order, Newly Revised, unless the board or commission adopts other rules of meeting procedure;
 - (5) Hold all meetings open to the public, after full and timely notice of date, time, place, and subject matter of the meeting, and provide an opportunity for public comment at the meeting; and
 - (6) Unless otherwise provided by law, conduct all quasi-judicial hearings under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.
- (c) Unless otherwise provided by law, three members of each board constitute a quorum, and each board or commission shall act only on an affirmative vote of at least three members.
- (d) Unless otherwise provided by law, each city board or commission is authorized to:
 - (1) Hold special meetings at any time upon the call of a quorum and after at least twenty-four hours' notice to members and as much public notice as is practicable under the circumstances;
 - (2) Administer oaths;
 - (3) Adopt rules interpreting its legislative duties under this code and establishing procedures in aid of its functions; and
 - (4) Issue subpoenas to require the presence of persons and the production of writings, papers, books, documents, records, or tangible things necessary to its proceedings.
 - (A) The secretary of the board or commission shall issue subpoenas upon written request therefor.
 - (B) Subpoenas shall be served in accordance with the provisions of Colorado Rules of Civil Procedure 45(c), except that no witness fees or mileage shall be paid.
 - (C) No person shall fail to obey a subpoena issued by the board or commission.

- (e) Except as otherwise provided by law, all members of city boards and commissions shall serve without pay, shall serve until their successors take office, and shall not hold any other office in the city, but the secretary of any board or commission may be a city employee.
- (f) If a member of a city board or commission is present at a meeting and refuses to vote, the member's vote shall be recorded in the affirmative. No member is excused from voting except on approving minutes of a meeting that the member did not attend or on a matter creating a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981, or on consideration of such member's conduct in the business of the board or commission.
- (g) If a city board or commission listed in this chapter, or the city council, the Boulder Municipal Property Authority, or an advisory body to a general improvement district, gives posted notice of a public meeting other than a notice required to be posted on affected property, in addition to any other place where such notice is posted, the notice shall be posted on the bulletin board in the first floor lobby of the municipal building located on the southwest corner of Broadway and Canyon. It shall not be necessary for any of these bodies to designate this place for posting annually. Except in cases of emergency meetings, such notice, if posted, shall be posted at least twenty-four hours in advance of the meeting. Notice posted pursuant to this subsection shall be full and timely notice, but no meeting shall be deemed not to have been preceded by full and timely notice merely because notice was not posted as allowed in this subsection so long as full and timely notice was given by some other means.

Ordinance Nos. 5621 (1994); 7202 (2002); 8013 (2014); 8047 (2015); 8313 (2019)

2-3-2. - Arts Commission.

- (a) The City of Boulder Arts Commission consists of five members appointed by the city council for five-year staggered terms, all of whom are city residents.
- (b) The commission's functions include, without limitation:
 - (1) To promote and encourage the development and public awareness of and interest in the fine and performing arts in the city;
 - (2) To advise the city council in connection with all matters relating to the artistic and cultural development of the city;
 - (3) To perform such other functions associated with the arts as the council may from time to time direct;
 - (4) To make recommendations to the council with respect to annual budget appropriations for the arts;
 - (5) To assist in the preparation of applications for grants or other sources of funding for arts programs for the city;
 - (6) To administer the city arts grant program and other city arts programs pursuant to any authority provided therefor by ordinance of the council; and
 - (7) To advise and consult with local arts groups as requested by such groups or by the council.
- (c) The commission is not authorized to issue subpoenas.

Ordinance No. 5541 (1993); 8047 (2015)

2-3-3. - Beverage Licensing Authority.

- (a) The City of Boulder Beverage Licensing Authority consists of five members serving five-year staggered terms, all of whom are city residents. The council shall appoint members at a regular meeting in March of every year. The council shall adjust terms as needed to stagger the terms. Vacancies shall be filled for the remainder of the term.
- (b) The city manager shall serve as secretary to the authority. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.
- (c) The authority's functions are:
 - (1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor, and fermented malt beverages;
 - (2) To conduct investigations;
 - (3) To suspend or revoke such licenses for cause;
 - (4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and
 - (5) To perform all other responsibilities that the council may delegate to it.
- (d) The city manager shall issue all licenses granted by the authority upon receipt of the license fees prescribed by Sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.
- (e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and Subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the authority.
- (f) The city council shall establish and adopt by resolution rules of procedure for the authority.
- (g) The authority may adopt supplemental rules of procedure provided that the authority's supplemental rules shall not be in conflict with those adopted by the city council.

Ordinance Nos. 5347 (1990); 5440 (1992); 7457 (2006); 8047 (2015)

2-3-4. - Board of Building Appeals.

- (a) The City of Boulder Board of Building Appeals consists of the five members of the board of zoning adjustment, who shall sit as the board of building appeals.
- (b) The chief city building official and the city fire chief shall be advisory members of the board without vote. The city manager shall be secretary of the board.
- (c) In addition to any other duties the council may prescribe, the responsibility of the board is to hear appeals by any person as provided in Section 9-9-21, "Signs," Chapters 10-2, "Property Maintenance Code," 10-5, "Building Code," 10-6, "Electrical Code," 10-7, "Energy Conservation Code," 10-8, "Fire Code," 10-8.5, "Wildland Code," 10-9, "Mechanical Code," 10-10, "Plumbing Code," and 10-12, "Mobile Homes," B.R.C. 1981.

Ordinance Nos. 5382 (1991); 7109 (2001); 7724 (2010); 7925 (2013)

2-3-5. - Downtown Management Commission.

- (a) The City of Boulder Downtown Management Commission consists of five members appointed by the city council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the Central Area General Improvement District or representatives of owners of such property. Two members shall be citizens of the city at large.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager in all matters relating to employees performing services for the commission. The manager shall be the appointing authority and shall determine the qualifications, duties, performance evaluation, and compensation of all employees performing services for the commission, after receiving the advice of the commission. The manager shall appoint an executive director of the commission to coordinate its functions. The commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of Charter Section 85, "City attorney," concerning appointment of special counsel by the city council.
- (d) The functions of the commission are to:
 - (1) Exercise, subject to call up by the city council acting as the Board of Directors of the Central Area General Improvement District as provided in Subsection (e) of this section, and subject to the limitations of Subsection (f) of this section, the following powers of said Board of Directors in furthering the purposes specified in Ordinance No. 3644 (1970), as amended, to provide parking and related improvements for CAGID:
 - (A) Acquisition, construction, installation, maintenance, operation, improvement, and repair of the improvements of CAGID and of all property, rights, and interests incidental or appurtenant thereto;
 - (B) Management, control, and supervision of all of the business affairs of CAGID and the installation, construction, operation, replacement, maintenance, repair, and improvement of the property and improvements of CAGID;
 - (C) Determination, imposition, redetermination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by CAGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) Hearing appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
 - (E) Acceptance of responsibility to maintain and repair public property located in but not owned by CAGID that is beneficial to the purposes of CAGID;

- (F) Contracting with the city to administer CAGID's program and operations;
 - (G) Copyrighting designs used for or by CAGID;
 - (H) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax free bonds of CAGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax free status;
- (2) Perform the duties of an advisory committee to the city council acting as the CAGID Board of Directors as specified in Subsection 8-4-10(c), B.R.C. 1981;
 - (3) Exercise all powers given it by Chapter 4-11, "Mall Permits and Leases," B.R.C. 1981;
 - (4) Function as an advisory body to the city council in the consideration or implementation of any downtown development authority or urban renewal authority having jurisdiction over any part of the Central Area General Improvement District.
 - (5) In addition, the commission shall be permitted, to the extent budgeted, to expend funds appropriated to the commission for maintenance of data concerning and for promotion of events in CAGID. This power shall include, without limitation, coordination of efforts of merchants and property owners and promotion of common plans of action and facilitation of transportation, parking, urban design, communications and quality of life improvements in CAGID. However, the commission shall not engage in any anticompetitive practice or discourage any person from locating any legal business in any particular place.
- (e) Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission. At the next council meeting held at least five days after delivery of the action to all council members, the council may call up the action for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be at the next meeting of the council unless the council by motion determines otherwise, the council shall make a final decision concerning what action shall be taken.
 - (f) The commission shall recommend to the city manager and the city council, and the council shall approve, a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the city for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
 - (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.

Ordinance Nos. 4806 (1984); 5085 (1987); 5453 (1992)

2-3-6. - Human Relations Commission.

- (a) The City of Boulder Human Relations Commission consists of five members appointed by the city council for five-year terms, or as long a lesser term as possible in staggering the terms, and includes as much as practicable members reflecting the various social, economic, ethnic, racial and religious segments of the city.
- (b) Repealed.
- (c) The functions of the commission are to foster mutual respect and understanding and to create an atmosphere conducive to the promotion of amicable relations among all members of the city's community, to serve as a vehicle through which citizens can convey their suggestions on city policies with respect to social problems, to be sensitive to the social needs of citizens and to advise and assist the city government in relating human and social services to the needs of the city residents. In addition to other tasks that the city council may assign to it, the commission shall:
 - (1) Study, prepare and recommend to the council a plan of long and short range priorities and specific legislation or programs to alleviate problems of human relations including programs administered by the city to promote better human relations;
 - (2) Upon request of the council or the city manager or upon its own initiative, advise the council or manager on the social and human relations impact of proposals to be acted upon by the council or upon areas to which the council's attention should be directed;
 - (3) Develop and conduct programs and activities, alone or in cooperation with government agencies or community groups, designed to increase good will among citizens of the city, eliminate discrimination and open new opportunities for all citizens in all phases of community life;
 - (4) Hold hearings and issue orders as provided in Chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981;
 - (5) Advise, coordinate and consult with the city manager on programs and activities concerning the city's department of housing and human services and the human rights ordinance, Chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981, and complement and assist those programs and activities;
 - (6) Conduct public hearings and inquire into incidents of division and conflict on issues of human relations and attempt to correct them by issuing public reports and recommending to appropriate agencies, public and private, implementation of actions necessary or helpful to eliminate such division and conflict; and
 - (7) Consider, investigate, study and make recommendations regarding any contemplated or proposed action by any federal, state or municipal government, or any agency or instrumentality thereof, that may have an effect on human relations in the community.

Ordinance Nos. 4879 (1985); 4805 (1984); 5099 (1988)

2-3-7.- Landmarks Board.

- (a) The City of Boulder landmarks board consists of five members appointed by the city council for five-year terms, two of whom are architectural or urban planning professionals and three of whom may be chosen without limitation. The planning board shall appoint one of its members to attend the landmarks board meeting without a vote and advise the landmarks board.

- (b) The board's responsibilities are:
 - (1) To initiate designations of landmarks and historic districts;
 - (2) To hold public hearings on proposed designation of landmarks and historic districts and approve, modify or disapprove such proposals;
 - (3) To hold public hearings on applications for landmark alteration certificates and approve, modify or disapprove the applications; and
 - (4) To approve structures of historical, architectural or aesthetic merit and to encourage the protection, enhancement, perpetuation and use of any such structures.
- (c) The board is not authorized to issue subpoenas.
- (d) The mayor, with the consent of the city council, may appoint former board members as alternates to hear matters under Chapter 9-11, "Historic Preservation," B.R.C. 1981, when the mayor finds that there is a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981. An alternate board member may be appointed pursuant to the following standards and procedures:
 - (1) The board member with the conflict of interest shall inform the board at a meeting prior to the meeting when the item where such conflict exists is to be considered;
 - (2) If the board finds it necessary to appoint an alternate board member as set forth above, the board shall request that the mayor appoint an alternate member from among the former members of the board; and
 - (3) The alternate board members shall only be authorized to act upon the matters that have been requested by the full board.

Ordinance No. 5712 (1995); 7522 (2007)

2-3-8. - Library Commission.

- (a) The library commission of the City of Boulder consists of five members appointed by the city council for five-year terms.
- (b) The functions of the commission are under the direction of the city manager to control the operations of the public library, leases of grounds or buildings for library purposes, administration of books and other resources entrusted to the library and management and custody of real and personal property acquired by loan, purchase, lease, gift, devise or bequest for the library.
- (c) The commission is authorized to:
 - (1) Make and enforce all rules and regulations for the administration, government and protection of the library and all real and personal property belonging thereto or loaned or leased thereto;
 - (2) Administer any trust created for the library;
 - (3) Define powers and prescribe duties of all officers and employees of the library;
 - (4) Borrow, lease, purchase and accept books, journals, publications, supplies and equipment for the library;
 - (5) Order payment from library funds for any liability or authorized expenditure of the library;
 - (6) Establish library branches and reading rooms meeting the needs of the city; and

(7) Make annual reports to the city council, including a statement of the number of books and periodicals on hand, the number of visitors and such other information as the city manager may request.

(d) The commission is not authorized to issue subpoenas.

Ordinance No. 8110 (2016)

2-3-9. - Open Space Board of Trustees.

(a) Creation of the Open Space Board of Trustees: There shall be an open space board of trustees consisting of five members appointed by the city council for five-year terms. The members of the board shall be residents of the city, shall not hold any other office in the city and shall serve without pay.

(b) Functions of the Board: The open space board shall not perform any administrative function unless expressly provided in this code. The board:

(1) Shall make recommendations to the city council concerning any proposed disposal of open space lands pursuant to Subsection (e) of this section;

(2) Shall make recommendations to the city council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, November 7, 1989 and November 4, 1997 or proceeds of property acquired with the assets of the fund;

(3) Shall make recommendations to the city council concerning any land that is to be placed under the direction, supervision or control of the department of open space and mountain parks, including, without limitation, recommendations concerning use policies on, planned uses of and restrictions on uses of, open space land;

(4) Shall make recommendations to the city council concerning the open space program;

(5) Shall review the open space elements of the Boulder Valley Comprehensive Plan and make recommendations concerning any open space related changes to the plan;

(6) Shall pursue vigorously the implementation of the open space elements of the Boulder Valley Comprehensive Plan and the acquisition of additional property required to fulfill the goals of the open space program;

(7) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the city council;

(8) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;

(9) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to Charter Section 97; and

(10) May prepare and submit to the city council, the city manager or the open space and mountain parks department recommendations on any other matter relating to the open space program, and may request and obtain from the open space and mountain parks department and the city manager information relating thereto.

(c) Board Recommendations: The city council, the city manager and the open space and mountain parks department shall not act on any of the matters set forth in paragraphs (b)(1) through (b)(9) of this

section without securing a recommendation from the board as above provided; however, the council, the manager and the department may act on the matters set forth in paragraphs (b)(2) through (b)(9) of this section without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.

- (d) Open Space Purposes - Open Space Land: Open space land shall be acquired, maintained, preserved, retained and used only for the following purposes:
- (1) Preservation or restoration of natural areas characterized by or including terrain, geologic formation, flora or fauna that are unusual, spectacular, historically important, scientifically valuable or unique or that represent outstanding or rare examples of native species;
 - (2) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats or fragile ecosystems;
 - (3) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding or fishing;
 - (4) Preservation of agricultural uses and land suitable for agricultural production;
 - (5) Utilization of land for shaping the development of the city, limiting urban sprawl and disciplining growth;
 - (6) Utilization of nonurban land for spatial definition of urban areas;
 - (7) Utilization of land to prevent encroachment on floodplains; and
 - (8) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural or wildlife habitat use of the land.

- (e) Disposal of Open Space Land:

- (1) No open space land owned by the City may be sold, leased, traded or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the City, giving the location of the land in question and the intended disposal thereof. No open space land owned by the City shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting the requirements of Charter Section 45 and signed by registered electors of the City to the number of at least five percent of the registered electors of the City as of the day the petition is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in Charter Sections 46 and 47 have been followed.
- (2) This section shall not apply to agricultural leases for crop or grazing purposes for a term of five years or less.
- (3) This section is to be construed liberally in favor of providing opportunities for the citizens of the City to refer measures proposing the disposal of any open space land.

- (4) In making recommendations to the city council regarding acquisition or disposition of open space land, the board shall consider the purposes set forth in Subsection (d) of this section and the following:
 - (A) The land use goals of the City;
 - (B) The quality of life of the residents of the City;
 - (C) Land as a finite resource with limited carrying capacity; and
 - (D) The potential cost to the City of the land after its acquisition or disposition.

Ordinance No. 7291 (2003)

2-3-10. - Parks and Recreation Advisory Board.

- (a) The City of Boulder Parks and Recreation Advisory Board consists of seven members, appointed by the city council for five-year terms.
- (b) The city manager shall serve as secretary to the board.
- (c) Four members of the board constitute a quorum. The board may only act on an affirmative vote of at least a majority of all members present at a meeting. Three members of the board may call a special meeting.
- (d) The board's functions are:
 - (1) To approve or disapprove proposals concerning the disposal of park lands and forward such recommendations to the city council;
 - (2) To approve or disapprove expenditures or appropriations from the permanent park and recreation fund and forward such recommendations to the city council;
 - (3) To make recommendations to the council concerning the grant or denial of any license or permit in or on park lands;
 - (4) To make recommendations to the council concerning protection and maintenance of park lands;
 - (5) To review the city manager's proposed annual budget relating to parks and recreation matters and submit its recommendations concerning that budget to the council;
 - (6) At the request of the council, the city manager or the department of parks and recreation, to prepare and submit to the council, manager or department, recommendations on any additional park and recreation matters; and
 - (7) To request information and recommendations from the department of parks and recreation pursuant to the provisions of Charter Section 155
- (e) The board is not authorized to issue subpoenas.

Ordinance No. 5039 (1987)

2-3-11. - Planning Board.

- (a) The City of Boulder Planning Board consists of seven members appointed by the city council for five-year terms.
- (b) The secretary of the board may be a member of the board or may be the city manager.
- (c) Four members of the board constitute a quorum. An affirmative vote of at least four members is necessary to authorize any action of the board.
- (d) The chair and at least two members may call special meetings.
- (e) The board's functions are those established in the charter, this code and other ordinances of the City, including, without limitation:
 - (1) To review and approve or disapprove changes to the Boulder Valley Comprehensive Plan;
 - (2) To review and recommend to the city council regarding proposed historic districts as prescribed by Section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981;
 - (3) To review and recommend to the city council regarding the City's capital improvements plan; and
 - (4) To perform all the functions prescribed by title 9, "Land Use Code," B.R.C. 1981.
- (f) The mayor, with the consent of the city council, may appoint former board members as alternates to hear matters under title 9, "Land Use Code," B.R.C. 1981, when the mayor finds that there will be an absence due to an appearance of impropriety or a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981, or due to an anticipated absence of a board member. An alternate board member may be appointed pursuant to the following standards and procedures:
 - (1) The board member with the conflict of interest, a recusal because of an appearance of impropriety or anticipated absence shall inform the board at a meeting prior to the meeting when the item where such conflict or recusal exists is to be considered or the time of an anticipated absence;
 - (2) If the board or chair finds it necessary to appoint an alternate board member as set forth above, the board or chair shall request that the mayor appoint an alternate member from among the former members of the board; and
 - (3) The alternate board member shall only be authorized to act upon the matters that have been requested by the full board or chair and authorized by the mayor.

Ordinance Nos. 4803 (1984); 7827 (2012); 7845 (2012)

2-3-12. - Board of Zoning Adjustment and Building Appeals.

- (a) The City of Boulder Board of Zoning Adjustment and Building Appeals consists of five members appointed by the city council for five-year terms.
- (b) The board's functions are to:
 - (1) Review and decide at the request of any interested person, any question of interpretation by the city manager of Section 9-6-1, "Schedule of Permitted Land Uses," or 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;

- (2) Hear and decide to grant or deny applications for variances from the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the size and parking setback requirements for accessory dwelling units of subparagraph 9-6-3(a)(2)(B), B.R.C. 1981;
- (3) Hear and decide referrals from the planning department or appeals from applicants or interested parties regarding changes or expansion in nonconforming buildings or lots, as provided in Section 9-2-14, "Site Review," B.R.C. 1981;
- (4) Hear and decide applications for exceptions under the solar access ordinance, Section 9-9-17, "Solar Access," B.R.C. 1981;
- (5) Hear and decide appeals of orders from the city manager under the sign code, Section 9-9-21, "Signs," B.R.C. 1981;
- (6) Hear and decide appeals of alterations and modifications related to mandatory green building practices and green points awards under Section 10-7.5-5, "Alteration or Modification," B.R.C. 1981;
- (7) Sit as the Board of Building Appeals pursuant to Section 2-3-4, "Board of Building Appeals," B.R.C. 1981; and
- (8) Hear and decide such other matters as the city council may by ordinance provide.

Ordinance Nos. 4803 (1984); 5034 (1987); 7109 (2001); 7565 (2007)

2-3-13. - Firefighters' Pension Fund Board of Trustees.

- (a) The City of Boulder Firefighters' Pension Fund Board of Trustees consists of the mayor, the chief financial officer, an appointee by the city council for a three-year term, and three members of the fire department hired before April 8, 1978, elected for a term of three years by the members of the fire department hired before April 8, 1978. The board shall elect from its members a president and a secretary.
- (b) The board's functions are:
 - (1) To supervise the City's and firefighters' contributions to the fund and the investment of all monies in the fund;
 - (2) To hear and decide all applications for relief or pensions from the fund.
- (c) The decision of the board on such contributions and applications for relief or pensions is final and conclusive, unless the board grants a rehearing in a particular case.
- (d) The board need not hold monthly meetings.
- (e) Four members of the board constitute a quorum, and the board shall only act on an affirmative vote of at least four members.
- (f) The chief financial officer is ex officio treasurer of the board.
- (g) The board shall make all necessary rules and regulations for managing and discharging its duties and for its own government and procedure and for the preservation and protection of the fund.
- (h) A record of all matters coming properly before the board shall be kept and preserved.

Ordinance Nos. 4995 (1986); 7799 (2012); 7838 (2012)

2-3-14. - Transportation Advisory Board.

- (a) The City of Boulder Transportation Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are:
 - (1) To advise the city manager, the planning board and the city council concerning any transportation matter, except as set forth in Subsection (c) of this section.
 - (2) To review all city transportation environmental assessments and capital improvements.
 - (3) To review, monitor and propose changes to the Transportation Master Plan for the Boulder Valley, including, without limitation, policies for automobiles, pedestrians, bicycles, transit, parking and greenways.
 - (4) To work with individual citizens, neighborhood groups and transportation staff to develop and recommend criteria by which to guide neighborhood traffic mitigation projects.
 - (5) To advise the city council and the planning board concerning alternative transportation programs and to track the modal shift goal of the transportation master plan.
 - (6) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, traffic engineering, parking and alternative transportation.
- (c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (d) Prior to making any recommendation, the board shall hold a public hearing.
- (e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5216 (1989); 5506 (1992)

2-3-15. - Water Resources Advisory Board.

- (a) The City of Boulder Water Resources Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are to advise the city manager, the planning board and the city council concerning the following water resources matters managed by the utilities division:
 - (1) To review all environmental assessments and capital improvements conducted or proposed by the utilities division.
 - (2) To review, monitor and propose changes to the City's raw water, treated water, wastewater and flood control master plans.
 - (3) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, water conservation, water treatment plant residuals, wastewater treatment plant biosolids disposal and water quality.
- (c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (d) Prior to making any recommendation, the board shall hold a public hearing.

- (e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5516 (1992); 5789 (1996)

2-3-16. - Environmental Advisory Board.

- (a) The City of Boulder Environmental Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are:
 - (1) To advise the city council and the city manager concerning waste management and recycling, energy efficiency, environmental risks and pollution control, except as already assigned to other boards and commissions.
 - (2) To advise the city council concerning an appropriate advocacy role for the City in state, regional and federal environmental matters.
 - (3) To advise the affected board and the city council concerning the effects on the environment of any proposed city master plan or revision.
- (c) The board shall not become involved in an environmental issue not specified by Subsection (b) of this section except as authorized by the city council.
- (d) The board shall not involve itself in any review under the land use regulations, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (e) The board shall not become involved in city environmental assessments unless requested to do so by the city council.
- (f) Prior to making any recommendation, the board shall hold a public hearing.
- (g) The board is not authorized to issue subpoenas.

Ordinance No. 5505 (1992)

2-3-17. - City of Boulder Public Access and Educational Channel Advisory Commission.

Repealed.

Ordinance Nos. 5705 (1995); 5859 (1997)

2-3-18. - Design Advisory Board.

- (a) The City of Boulder Design Advisory Board consists of five members appointed by the city council for five-year terms, at least two of whom are design professionals and three of whom may be chosen without limitation. The purpose of the board is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.
- (b) The board's functions are to:
 - (1) Review projects for compliance with the most recent Downtown Urban Design Plan, and provide comments to persons responsible for designing and developing downtown projects having a

valuation of \$25,000.00 or more involving the construction of a new building or exterior work on an existing building;

- (2) Review projects for compliance with the most recent Downtown Urban Design Plan and provide comments to persons responsible for designing, developing and approving downtown projects that require a discretionary development review, pursuant to Chapter 9-2, "Review Processes," B.R.C. 1981; and
 - (3) Advise and make recommendations for approval or disapproval of amendments to the most recent Downtown Urban Design Plan to the planning board, the city manager and the city council.
- (c) The board shall use the guidelines set forth in the most recent Downtown Urban Design Plan to review projects in those areas described on the "Downtown Area Map" as the historic commercial area, the non-historic downtown area and the interface area.
 - (d) Projects that require a review by the landmarks board are exempt from a review by the Design Advisory Board.
 - (e) The board shall not involve itself in any review under title 8, "Parks, Open Space, Streets and Public Ways," 9, "Land Use Code," or 10, "Structures," B.R.C. 1981, unless its opinion is requested by the city manager, planning board or city council. The purpose of such review is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.
 - (f) Prior to making any recommendation, the board shall hold a public hearing.
 - (g) The board is not authorized to issue subpoenas.

Ordinance Nos. 5963 (1998); 7788 (2011)

2-3-19. - Resident Commissioner for the Housing Authority.

Pursuant to § 29-4-205, C.R.S., the city council is permitted to provide for the appointment of commissioners of the Housing Authority of the City of Boulder, also known as Boulder Housing Partners. One of such commissioners is required by federal regulation to represent the residents of Housing Authority facilities, and it is preferable that the Resident Commissioner be elected by the residents of Housing Authority facilities. Accordingly, the city council hereby designates the President of the Resident Representative Council of the Housing Authority, certified from time to time by the Board of Commissioners of the Housing Authority, as the Resident Representative Commissioner member of the Board of Commissioners. The city council further determines that Resident Commissioner should serve for whatever term such person serves as President of the Resident Representative Council, notwithstanding the five-year staggered terms served by other Housing Authority Commissioners. The city council hereby limits the participation of the Resident Commissioner in matters before the Board of Commissioners to public housing and Section 8 matters, not involving the management of the housing development in which such person resides. The President of the Resident Representative Council may designate any officer of the council to act as an alternate Resident Commissioner when the President is unable to attend Housing Authority meetings.

Ordinance No. 7218 (2002)

2-3-20. - University Hill Commercial Area Management Commission.

- (a) The City of Boulder University Hill Commercial Area Management Commission ("Commission,") consists of five members appointed by the city council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the University Hill General Improvement District ("UGHID") or representatives of owners of such property. Two members shall be citizens of the City at large.
- (b) The secretary of the Commission may be a member of the Commission or may be a city staff member. Three members of the Commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the Commission.
- (c) Annually, the Commission shall select a chair and a vice-chair from among its members. The Commission may appoint such subcommittees and task forces as it deems appropriate. The manager shall appoint an executive director of the Commission to coordinate its functions. The Commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of Charter Section 85, "City attorney," concerning appointment of special counsel by the city council.
- (d) The functions of the Commission are to provide recommendations to:
 - (1) City council acting as the Board of Directors of the UHGID in furthering the purposes specified in Section 8-4-11, "Powers of the District," B.R.C. 1981, Ordinance Numbers 3638, 4299 and 4958, as amended, to provide parking and related improvements for UHGID as follows:
 - (A) Acquisition, construction, installation, maintenance, operation, improvement and repair of the improvements of UHGID and of all property, rights and interests incidental or appurtenant thereto;
 - (B) Management, control and supervision of all of the business affairs of UHGID and the installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of UHGID;
 - (C) Determination, imposition, re-determination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by UHGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the Commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax-free bonds of UHGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax-free status; and
 - (E) A general description of the improvements to be constructed and installed within UHGID or outside the district for the special benefit of UHGID as follows: a general parking program to provide parking, pedestrian, bicycles, mass transit, aesthetic and related improvements for the district area, which may include, but shall not be limited to:

- (i) Parking and off-street parking facilities;
 - (ii) Acquisition or lease of necessary land or interests therein, and improvements thereto in connection with said facilities both within and outside the district;
 - (iii) Other incidental and appurtenant facilities and improvements designed to improve parking and improve the convenience of the district area;
 - (iv) Pedestrian and bicyclist amenities, including benches, trees, landscaping, bike racks, signage, banners and trash receptacles;
 - (v) Improvements to increase the attractiveness and convenience of the district;
 - (vi) Incentive programs to encourage use of means of transportation to and from the district other than the under-occupied private automobiles; and
 - (vii) Maintenance of any of the above-described types of facilities and improvements located in the public right of way within the district.
- (2) Perform the duties of an advisory committee to the city council acting as the UHGID Board of Directors as specified in Section 8-4-10, "Advisory Committee," B.R.C. 1981.
- (3) Function as an advisory body to the city council acting as the UHGID Board of Directors in the consideration or implementation of any "Downtown Development Authority," as that term is defined in § 31-25-801, et seq., C.R.S., or "Urban Renewal Authority," as that term is defined in § 31-25-101, et seq., C.R.S., or related entity having jurisdiction over any part of the UHGID.
- (4) In addition, the Commission shall undertake an advisory role to the city council regarding the overall health and welfare of the University Hill Commercial Area and immediately adjacent areas, including the following:
- (A) Make recommendations for the creation and maintenance of data, studies and information concerning the University Hill Commercial Area in order to support and enhance the sustainability of UHGID and the University Hill Commercial Area. This power shall include, without limitation, coordination of collaborative efforts with University Hill Commercial Area merchants, business and property owners as well as other University Hill stakeholders including residents, students and the University of Colorado in the promotion of common plans of action and related to: transportation, parking, urban design, economic vitality, promotional activities, communications and quality of life improvements in UHGID and the University Hill Commercial Area;
 - (B) The Commission shall not recommend any anti-competitive practice or discourage any person from locating any legal business in any particular place;
 - (C) Advise on the overall vitality of the University Hill Commercial Area, including, but not limited to, overall area marketing and economic vitality initiatives and events promoting the area;
 - (D) Include consideration of the long-term future and sustainability of the University Hill Commercial Area; and
 - (E) Make recommendations regarding vending carts as per Section 4-18-4, "University Hill Mobile Vending Cart Permit," B.R.C. 1981.
- (e) The Commission shall recommend a budget to the city manager, the city council and the city council acting as the UHGID Board of Directors. City council may approve such budget. The Commission may

not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council.

- (f) For the purposes of this section, University Hill Commercial Area means the area as defined in Ordinance Numbers 3638, 4299 and 4958, and generally bounded by the south side of University Avenue, the west side of Broadway, the west side of 14th Street from College to the southern end of the UHGID-owned parking lot, the south side of College Avenue, the alley between 12th Street and 13th Street, including the pedestrian underpass at College Avenue and as illustrated on the map entitled "University Hill Commercial Area" incorporated into Ordinance Number 7579 as Exhibit A.
- (g) University Hill General Improvement District or UHGID means the City of Boulder University Hill General Improvement District established by Ordinance Number 3638, as subsequently amended.

Ordinance No. 7579 (2008)

2-3-21. - Boulder Junction TDM Commission.

- (a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - TDM ("District" or "BJAGID - TDM") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five-year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the City regarding such property.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.
- (d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:
 - (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;

- (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
 - (3) To enter into contracts on behalf of the District;
 - (4) To contract with the City to administer the District's program and operations;
 - (5) To copyright, trademark or obtain other protections of designs used for or by District;
 - (6) To lease district facilities, including, without limitation, retail space; and
 - (7) To perform any such other duties and as may be required by the board of directors or by applicable law.
- (e) The functions of the commission are to make decisions or provide recommendations of said board of directors in furthering the purposes of the District, as specified herein and in the petition to provide alternative modes of transportation related services and improvements for the District, including, without limitation, the following:
- (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;
 - (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) To hear appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
 - (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
 - (F) To include or exclude property from the district boundaries pursuant to Section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII.C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property taxes: The maximum mil levy authorized by the votes of the District is 20 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:
 - (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
 - (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District and to develop reserve funds.
 - (C) The mil levy may be increased from 10 mils and up to 20 mils if an opportunity arises for the District to participate in alternate transit modes, which may include acquiring interests in property or financing agreements, including, without limitation, issuance of debt. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
 - (3) Authorize debt: The maximum debt authorized by the voters of the District is \$2,500,000.00, at a maximum interest rate of twelve percent and a maximum repayment cost of \$5,000,000.00. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:
 - (A) A public hearing before the commission; and
 - (B) At least three commission members affirmatively vote in favor of incurring such debt.
 - (4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;
 - (5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.
- (f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the City for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
- (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.
- (h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7732 (2010)

2-3-22. - Boulder Junction Parking Commission.

- (a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - Parking ("District" or "BJAGID - Parking") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five-year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the City regarding such property.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.
- (d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:
- (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;
 - (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
 - (3) To enter into contracts on behalf of the District;
 - (4) To contract with the City to administer the District's program and operations;
 - (5) To copyright, trademark or obtain other protections of designs used for or by the District;
 - (6) To lease district facilities, including, without limitation, retail space; and
 - (7) To perform any such other duties and as may be required by the board of directors or by applicable law.
- (e) The functions of the commission are to make decisions or provide recommendations to the board of directors in furthering the purposes of the District as specified herein and in the petition to provide alternative modes of transportation and parking related services and improvements for the District, including, without limitation, the following:

- (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;
 - (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) To hear appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
 - (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
 - (F) To include or exclude property from the district boundaries pursuant to Section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property Taxes: The maximum mil levy authorized by the voters of the District is 30 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:
 - (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
 - (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District, to develop reserve funds and to acquire property interests for parking.
 - (C) The mil levy may be increased from 10 mils and up to 20 mils for any purpose authorized by the District. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and

- ii. At least three commission members affirmatively vote for such tax increase.
- (D) The mil levy may be increased from 20 mils and up to 30 mils to support issuance of debt of the District to acquire or develop parking facilities. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
 - iii. For purposes of this section, parking facilities includes acquisition of property interests, including, without limitation, purchase or lease, for temporary or permanent use as parking spaces at grade level or in a parking structure, which spaces may be available upon acquisition of the property interests or sometime in the future.
- (3) Authorize debt: The maximum debt authorized by the voters of the District is \$13,000,000, at a maximum interest rate of twelve percent and a maximum repayment cost of \$32,000,000. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:
 - (A) A public hearing before the commission; and
 - (B) At least three commission members affirmatively vote in favor of incurring such debt.
- (4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;
- (5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.
- (f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the city for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
- (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.
- (h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7731 (2010)

2-3-23. - Electric Utility Board.

- (a) Electric Utility Board. The City of Boulder electric utility board consists of nine members not all of the same gender identity. The members of the board shall not hold any other office in the city and shall serve without pay.
- (b) Chair and Secretary. The board shall choose a chair and a secretary from among its members. The director of electric utilities may be designated as secretary by the board.

- (c) Regular and special meetings. The board shall have regular meetings once a month. Special meetings may be called at any time by the city manager, the chair, or four members of the board upon the giving of at least twenty-four hours' notice of said special meeting to the board members.
- (d) Quorum. Five members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.
- (e) Record of meetings. The board shall keep minutes and records of its meetings, recommendations, and decisions.
- (f) Rules of order. Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business.
- (g) Board member qualifications. Board members shall be qualified to serve on an advisory commission pursuant to Section 130 of the charter, customers of the electric utility, or the owners or employees of a business or governmental entity that is a customer of the electric utility; provided, however, that a majority of the board shall be qualified to serve on an advisory commission pursuant to Section 130. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utility board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility.
- (h) Board member duties and functions. The duty of each member shall be to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of customer or the member. The duties and functions of the electric utility board are those established in the charter, this code, and other ordinances of the city, including, without limitation:
 - (1) Advice. To advise the city council on policy matters pertaining to the municipal electric and utility systems, including, without limitation, such policies as the board determines are necessary or prudent to carry out its fiduciary duties and the requirement of the charter;
 - (2) Sounding Board. To act as a sounding board to the city council, city manager, and the electric utility director for the purpose of identifying the ratepayers' service delivery expectations;
 - (3) Rulemaking. To adopt rules and regulations with respect to any matter within its jurisdiction as it may be permitted by the council;
 - (4) Meeting Rules. To adopt bylaws governing its meeting and agenda procedures and other pertinent matters;
 - (5) Budget and Appropriations. To review and make recommendations to the city council on the city manager's proposed budget and appropriation as it relates to the utility;
 - (6) Revenue Bonds. To review and make recommendations to the city council concerning the issuance of revenue bonds or other obligations payable from revenues of the electric utilities enterprise;
 - (7) Other Recommendations. To review and make recommendations on any other matter relating to the electric utilities program, and may request and obtain from the electric utilities department and the city manager information relating thereto.
- (i) Public Hearings. Prior to making any recommendation to the council or the city manager, the board shall hold a public hearing.
- (j) No subpoenas. The board is not authorized to issue subpoenas.

- (k) Electric utility board member appointments. The council will appoint the electric utility board prior to or concurrent with the point in time that the utility has issued bonds and is receiving revenue that will qualify it as an enterprise under Article X, Section 20 of the Colorado Constitution. Until such time as the board is appointed, the city council shall be responsible for fulfilling the responsibilities of the electric utility board.

Ordinance No. 7969 (2014)

2-3-24. - Housing Advisory Board.

- (a) The City of Boulder Housing Advisory Board consists of seven members appointed by City Council for five-year terms. At the time of appointment, at least one member will be a tenant and at least one shall be a homeowner. In 2019, upon the increase in the board from five to seven members, the city council shall appoint two persons to serve five-year terms (one to fill an expiring one-year term and another to fill a new five-year term) and one person to serve a three-year term, so that no more than two terms will expire in any one year.
- (b) The Planning Board and the technical review group that advises the city manager on housing funding priorities, shall appoint one member each to serve as advisory members of the board without vote.
- (c) The city manager serves as secretary to the board.
- (d) The responsibilities of the board are:
 - (1) To advise the city council and city manager on housing issues, strategies, goals and policies.
 - (2) To study and recommend to the council and the city manager long and short-range goals, ordinances, funding priorities and programs to address recognized housing needs.
 - (3) To develop and recommend, with community input, innovative approaches to accomplish the city's housing goals, including tools for preserving existing housing.
 - (4) To advise the city council and city manager concerning the impacts of city policy proposals on housing affordability, diversity and accessibility.
 - (5) To review regional housing issues and make recommendations to the city council.
 - (6) To advise the city council concerning an appropriate advocacy role for the city in state and federal housing matters.
 - (7) To consult and coordinate with housing committees and other city boards and commissions to develop and support the city's housing efforts.
- (e) The board shall not perform any administrative functions unless expressly provided in this code.
- (f) The board shall not involve itself in any review under the land use regulations, Title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council or the planning board. Nothing

in this section shall prohibit the housing board from making recommendations for changes to Title 9, "Land Use Code," B.R.C. 1981.

(g) Prior to making any recommendation, the board shall hold a public hearing.

(h) The board is not authorized to issue subpoenas.

(i) Four members of the board constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action of the board.

Ordinance No. 8239 (2018); 8313 (2019)

Relevant Provision of the Boulder City Charter

ARTICLE IX. - ADVISORY COMMISSIONS

Sec. 130. - General provisions concerning advisory commissions.

At any time after the organization of the council elected under the provisions of this charter, the council by ordinance may create and provide for such advisory commissions as it may deem advisable; provided, that a library commission is hereby created, and the council shall, within ninety days from its organization, appoint the members thereof.

Except as otherwise specified in this charter, each of the existing advisory commissions, including the library commission, shall be composed of five city residents. For any advisory commissions appointed after January 1, 2019, the council shall specify in the ordinance forming the advisory commission whether the commission shall have five or seven members, for any advisory commission created by ordinance adopted in March 2018, the council may, by subsequent ordinance, specify that the commission shall have seven members. All members of a commission shall be appointed by the council, not all of one gender identity, who are well known for their ability, probity, public spirit, and particular fitness to serve on such respective commissions and who are at least eighteen years old and who have resided in the city of Boulder for at least one year immediately prior to their appointment to serve on the commission. When first constituted, the council shall designate the terms for which each member is appointed so that the term of one commissioner shall expire on December 31 of each year; and thereafter the council shall by March of each year appoint one member to serve for a term of five years. The council shall have the power to remove any commissioner for non-attendance to duties or for cause. All vacancies shall be filled by the council. When first appointed and annually thereafter following the council's appointment of the commissioner, each commission shall organize by appointing a chair, a vice-chair, and a secretary; all commissioners shall serve without compensation, but the secretary of any commission, if not a member, may receive a salary to be fixed by the council; any commission shall have power to make rules for the conduct of its business. All commissioners shall serve until their successors are appointed.

All commissions shall hold regular monthly meetings. Special meetings may be called at any time upon due notice by a majority of the members. A majority of the members shall constitute a quorum, and the affirmative vote of at least a majority of the members shall be necessary to authorize any action by the commission.

All commissions shall keep accounts and records of their respective transactions, and at the end of each quarter or more often, if requested by the council, and at the end of each fiscal year shall furnish to the council a detailed report of receipts and expenditures and a statement of other business transacted.

The chair of a commission shall preside at the meetings thereof and sign, execute, acknowledge, and deliver for the commission all contracts and writings of every kind required or authorized to be signed or delivered by the commission. The signature of the chair shall be attested by the secretary.

The commissions shall have the right to the floor of the council to speak on plans and expenditures proposed or to appeal for a decision in a failure to agree with another commission or the manager.

Wherever there shall be suitable accommodations in the city building, the offices of the commissions shall be maintained there.

(Amended by Ord. No. 6007 (1998), § 2, adopted by electorate on November 3, 1998. Further amended by Ord. No. 7914 (2013), § 2, adopted by electorate on November 5, 2013. Further amended by Ord. No. [8271](#) (2018), § 3, adopted by electorate on November 6, 2018.)

Civil Service Commission

Sec. 131. - Council may create.

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Library Commission

Sec. 132. - Library commission established.

There shall be and is hereby established a library commission which shall have the primary responsibility as an advisory commission with regard to the provision of library services to the Boulder community. The members of the commission shall be qualified to serve on an advisory commission pursuant to [Section 130](#), shall not hold any other office in the city, and shall serve without pay.

(Amended by Ord. No. 8055 (2015), § 2, adopted by electorate on November 3, 2015.)

Sec. 133. - Powers and duties of library commission.

The library commission shall not perform any administrative functions unless expressly provided in this charter. The commission shall provide recommendations to the city council in matters concerning the library, and the commission shall have the following duties:

- (a) Adopt bylaws, rules, and regulations for its guidance and governance;
- (b) Provide advice to assist in preparation and revision of a master plan for the development and maintenance of a modern library system within the city;
- (c) Review annually the library budget prepared by the library director prior to its submittal to the city manager and make recommendations regarding approval or modification of the same;
- (d) Review periodically the director's operational service plans and make comments and recommendations;
- (e) Make recommendations to the director and the city council on library facilities, including capital improvements, maintenance of existing facilities, and need for new facilities;
- (f) Review the library director's annual report and make comments and recommendations;
- (g) Represent the library to the community and the community to the library with the goal of building awareness, understanding, and support; and
- (h) Take steps as the library commission may deem feasible to encourage grants or gifts in support of the library.

(Amended by Ord. No. 8055 (2015), § 2, adopted by electorate on November 3, 2015.)

Sec. 134. - Library fund.

The city council shall make an annual appropriation, which shall amount to not less than the return of one-third of a mill tax levied upon each dollar of assessed valuation of all taxable property in the City of Boulder. All revenue from such tax shall be paid into the city treasury and be designated the "Library Fund." Said fund shall be used only for the benefit of the library.

Revenues from the following sources shall be deposited in the Library Fund referenced above. Expenditures of revenues from the following sources shall be made only upon the favorable recommendation of the library commission.

(a) Gifts, bequests, and donations to the fund.

(b) Proceeds of the sale of any library property, or the pro rata portion of such property, purchased with funds from the property tax appropriated pursuant to this [section 134](#) or the predecessor section 135 or gifts, bequests, and donations.

Any portion of the fund remaining unexpended at the end of any fiscal year shall not in any event be converted into the general fund nor be subject to appropriation for general purposes. Money appropriated from the fund which is not expended in whole or in part shall be returned to the fund and shall not be subject to appropriation for general purposes.

(Amended by Ord. No. 8055 (2015), § 2, adopted by electorate on November 3, 2015.)

ARTICLE XI. - PARKS AND RECREATION

Sec. 154. - Creation of a department of parks and recreation.

There shall be a department of parks and recreation.

As used in this charter, "park land," "park property," and "recreation facilities" means all lands donated to the city for park or recreation purposes, acquired by the city through purchase, dedication, deed, or condemnation for park or recreation purposes, or purchased or improved in whole or in part with funds from the permanent park and recreation fund.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 155. - Functions of the department.

Under the direction, supervision and control of the city manager, the department of parks and recreation:

- (a) Shall supervise, administer, and maintain all park property and recreation facilities.
- (b) Shall supervise, administer, and execute all park and recreation programs, plans, functions, and activities of the city.
- (c) Shall prepare and submit to the parks and recreation advisory board written recommendations on those matters where this article requires a recommendation from said board prior to council or department action.

(d) May, at the request of the parks and recreation advisory board, prepare and submit to the board information and recommendations on such park and recreation matters as are not provided for by (c) above.

(e) May request advice on any park and recreation matter from the parks and recreation advisory board.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 156. - Organization of the department.

The chief administrative officer of the department shall be the director of parks and recreation. The director shall be appointed by the city manager for an indefinite period and shall be removable by the city manager. The said director, working under the direction, supervision, and control of the city manager, shall be responsible for performing and carrying out the activities of the department and for supervising all department personnel and equipment.

The city manager may appoint a superintendent of parks and a superintendent of recreation. Any such appointments shall be for an indefinite period, and said superintendents shall be removable by the city manager.

The superintendent of parks, working under the direction, supervision, and control of the director of parks and recreation, shall perform all activities of the department related to parks.

The superintendent of recreation, working under the direction, supervision, and control of the director of parks and recreation, shall perform all activities of the department related to recreation.

The city manager may employ such other subordinate personnel as the manager determines are required to carry out the activities of the department.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 157. - Creation of the parks and recreation advisory board.

There shall be a parks and recreation advisory board consisting of seven members appointed by the city council. The members of the board shall be qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office in the city, and shall serve without pay. The council may appoint such ex-officio members to the board for such terms as it deems advisable.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 7914 (2013), § 2, adopted by electorate on November 5, 2013.)

Sec. 158. - Term of office of board members-removal-vacancies.

The term of each board member shall be five years, provided, however, that in appointing the original members of the board, the city council shall designate one member to serve until December 31, 1961, two members to serve until December 31, 1962, one member to serve until December 31, 1963, two members to serve until December 31, 1964, and one member to serve until December 31, 1965.

The council may remove any board member who displays lack of interest or who fails to attend board meetings for three consecutive months without formal leave of absence.

The council shall fill all vacancies.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 159. - Organization and procedure of the board.

The board shall choose a chair and a secretary. The director of parks and recreation may be designated as secretary by the board.

The board shall have regular meetings once a month. Special meetings may be called at any time by three members of the board upon giving of at least twenty-four hours' notice of said special meeting to the board members.

Four members of the board shall constitute a quorum. Unless otherwise expressly provided herein, an affirmative vote of a majority of the members present shall be necessary to authorize any action by the board.

The board shall keep minutes and records of its meetings and transactions.

Except for such provisions as are herein expressly provided for, the board shall have power to make reasonable rules for the conduct of its business.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 160. - Functions of the board.

The parks and recreation advisory board shall not perform any administrative functions unless expressly provided in this charter. The board:

- (a) Shall make recommendations to the council concerning the disposal of park lands pursuant to Section 162 of this charter.
- (b) Shall make recommendations to the council concerning any expenditure or appropriation from the permanent park and recreation fund pursuant to Section 161 of this charter.
- (c) Shall make recommendations to the council concerning the grant or denial of any license or permit in or on park lands, pursuant to Section 164 of this charter.
- (d) Shall review the city manager's proposed annual budget as it relates to park and recreation matters and submit its recommendations concerning said budget to the council.
- (e) May, at the request of the council or the department of parks and recreation, prepare and submit to the council, city manager, or the department recommendations on such park and recreation matters as are not provided for by paragraphs (a), (b), (c) and (d) above.
- (f) May request information and recommendations from the department pursuant to the provisions of Section 155(d) above.

The city council and the parks and recreation department shall not act on any of the matters set forth in paragraphs (a), (b), (c) and (d) above without securing a recommendation from the board as above provided; however, the council and department may act on the matters set forth in paragraphs (c) and (d) above without a board recommendation if the board fails to submit its recommendation to the council within thirty days after request therefor is made by the council.

The board's recommendation shall not be binding upon the city council unless expressly provided by this charter.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 161. - Permanent park and recreation fund.

There shall be a permanent park and recreation fund. This fund shall consist of the following:

- (a) An annual levy of nine-tenths of one mill on each dollar of assessed valuation of all taxable property within the city.
- (b) Gifts and donations to the fund.
- (c) Proceeds of the sale of any park or recreation property or equipment whether real, personal, or mixed.
- (d) Appropriations made to the fund by the city council.

Expenditures from this fund shall be made only upon the favorable recommendation of the parks and recreation advisory board and appropriation by the council. Said fund shall not be used for any purpose other than the acquisition of park land or the permanent improvement of park and recreation facilities.

Any portion of the fund remaining unexpended at the end of any fiscal year shall not in any event be converted into the general fund nor be subject to appropriation for general purposes. Money appropriated from the fund which is not expended in whole or in part shall be returned to the fund and shall not be subject to appropriation for general purposes. Money appropriated from the general fund for park or recreational purposes which is not expended for the purpose designated shall be returned to the general fund.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 162. - Disposal of park properties.

Park lands may be disposed of by the city council, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. An advisory recommendation, which shall not be binding on the council, shall be obtained from the planning board prior to the disposition or lease of park lands.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 163. - Acquisition of park land.

The council may acquire park land for the city, provided that the council shall not make any expenditure of money for the purpose of acquiring park lands without first securing a recommendation from the planning board and the parks and recreation advisory board. Provided, however, that the council can act without such recommendations if said boards fail to submit their recommendation to the council within thirty days after request therefor is made by the council. The recommendations of the said boards shall not be binding on the council except that the recommendation of the parks and recreation advisory board concerning expenditures from the permanent park and recreation fund shall be binding on the council pursuant to Section 161 of this charter.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

Sec. 164. - Franchises, leases, permits, and licenses in parks.

No franchise shall ever be granted in or on park lands except on vote of the registered electors in accordance with the provisions of article VIII of the charter of the city.

The council may by motion grant leases, permits, or licenses in or on park lands, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. The council may, by

ordinance, delegate all or any part of this authority to the parks and recreation advisory board to approve such leases, permits, or licenses. The parks and recreation advisory board may, by motion, subdelegate all or any part of its delegated authority to approve such leases, permits, or licenses to the city manager. The city manager may enter into standard commercial licensing agreements for automatic food vending machines on park lands without the approval of the parks and recreation advisory board or the council.

The term of any license or permit granted hereunder shall not exceed five years, and any such license or permit so granted shall be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or license.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. Amended by Ord. No. 5574 (1993), § 1, adopted by electorate on November 2, 1993. Further amended by Ord. No. 7801 (2011), § 2, adopted by electorate on November 1, 2011.)

Sec. 165. - Transfer of assets, liabilities, and surplus from permanent park fund to the permanent parks and recreation fund.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 166. - Repeal of inconsistent charter provisions.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 167. - Severability.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 168. - Conflicting charter provisions declared inapplicable.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 169. - Article self-executing.

(Added by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961.)

(Repealed by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

ARTICLE XII. - OPEN SPACE

Sec. 170. - Creation of a department of open space.

There shall be a department of open space, which shall be responsible for all open space land and other property associated therewith.

As used in this charter, "open space land" shall mean any interest in real property purchased or leased with the sales and use tax pledged to the open space fund pursuant to the vote of the electorate on November 7, 1967, or proceeds thereof, any interest in real property dedicated to the city for open space purposes, and any interest in real property that is ever placed under the direction, supervision, or control of the open space department, unless disposed of as expressly provided in section 177 below.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 171. - Functions of the department.

Under the direction, supervision, and control of the city manager, there shall be a director of the department of open space, who may also serve as the city's director of real estate. Subject to the limitations set forth in section 175 below, the department of open space:

- (a) Shall acquire, supervise, administer, preserve, and maintain all open space land and other property associated therewith and may grant nonexclusive licenses and permits and agricultural leases for crop or grazing purposes for a term of five years or less;
- (b) Shall supervise, administer, and execute all open space programs, plans, functions, and activities of the city;
- (c) Shall prepare and submit to the open space board of trustees written recommendations on those matters on which this article requires a recommendation from said board prior to council or department action;
- (d) May, at the request of the open space board of trustees, prepare and submit to the board information and recommendations on such open space matters as are not provided for by (c) above; and
- (e) May request advice on any open space matter from the open space board of trustees.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986. Amended by Ord. No. 7155 (2001), § 1, adopted by electorate on November 6, 2001.)

Sec. 172. - Creation of the open space board of trustees.

There shall be an open space board of trustees consisting of five members appointed by the city council. The members of the board shall be qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office in the city, and shall serve without pay.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986. Amended by Ord. No. 7914 (2013), § 2, adopted by electorate on November 5, 2013.)

Sec. 173. - Term of office of board members-removal-vacancies.

The term of each member shall be five years; provided, however, that in appointing the original members of the board, the city council shall continue the terms of the current members and shall stagger the initial terms so that one board member's term expires in each year.

Five members of the council may remove any board member for cause.

The council shall fill all vacancies.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 174. - Organization and procedure of the board.

The board shall choose a chair and a secretary. The director of the department of open space may be designated as secretary by the board.

The board shall have regular meetings once a month. Special meetings may be called at any time by three members of the board upon the giving of at least 24 hours' notice of said special meeting to the board members.

Three members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.

The board shall keep minutes and records of its meetings and transactions.

Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 175. - Functions of the board.

The open space board shall not perform any administrative functions unless expressly provided in this charter. The board:

- (a) Shall make recommendations to the council concerning any proposed disposal of open space lands pursuant to section 177 below;
- (b) Shall make recommendations to the council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, or proceeds of property acquired with the assets of the fund;
- (c) Shall make recommendations to the council concerning any land that is to be placed under the direction, supervision, or control of the department of open space, including, without limitation, recommendations concerning use policies on, planned uses of, and restrictions on uses of, open space land;
- (d) Shall make recommendations to the council concerning the open space program;
- (e) Shall review the open space elements of the Boulder Valley Comprehensive Plan and make recommendations concerning any open space-related changes to the plan;
- (f) Shall pursue vigorously the implementation of the open space elements of the Boulder Valley Comprehensive Plan and the acquisition of additional property required to fulfill the goals of the open space program;
- (g) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the council;
- (h) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;
- (i) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to section 97 above; and
- (j) May prepare and submit to the council, the city manager, or the open space department recommendations on any other matter relating to the open space program, and may request and obtain from the open space department and the city manager information relating thereto.

The city council, the city manager, and the open space department shall not act on any of the matters set forth in paragraphs (a) through (i) above without securing a recommendation from the board as above provided; however, the council, the manager, and the department may act on the matters set forth in paragraphs (b) through (i) above without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.

The board's recommendation shall not be binding upon the city council, except as expressly provided in section 177 below.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 176. - Open space purposes-open space land.

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

- (a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically valuable, or unique, or that represent outstanding or rare examples of native species;
- (b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;
- (c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;
- (d) Preservation of agricultural uses and land suitable for agricultural production;
- (e) Utilization of land for shaping the development of the city, limiting urban sprawl, and disciplining growth;
- (f) Utilization of non-urban land for spatial definition of urban areas;
- (g) Utilization of land to prevent encroachment on floodplains; and
- (h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural, or wildlife habitat use of the land.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986.)

Sec. 177. - Disposal of open space land.

No open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the city, giving the location of the land in question and the intended disposal thereof. No open space land owned by the city shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting the requirements of Section 45 above and signed by registered electors of the city to the number of at least ten percent of the average number of registered electors of the city who voted in the previous two municipal elections as of the day the petition is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in Sections 46 and 47 above have been followed.

This section shall not apply to agricultural leases for crop or grazing purposes for a term of five years or less.

This section is to be construed liberally in favor of providing opportunities for the citizens of the city to refer measures proposing the disposal of any open space land.

(Added by Ord. No. 4996 (1986), § 1, adopted by electorate on November 4, 1986. Further amended by Ord. No. 8272 (2018), § 3, adopted by electorate on November 6, 2018.)

ARTICLE V: ADMINISTRATIVE SERVICE

Department of Planning

Sec. 74. - Planning board.

There shall be a city planning board which shall consist of seven members appointed by the city council. The appointive members shall be qualified to serve on an advisory commission pursuant to Section 130, shall not hold any other office under this charter except as provided in Section 84A, shall serve without pay, and shall be removable by the council for cause.

The council shall remove any appointive member who displays lack of interest, or fails, upon due notice, and continuously for three months, to attend meetings of the board without formal leave of absence.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951. Further amended by Ord. No. 2728 (1963), § 1, adopted by electorate on November 5, 1963. Further amended by Ord. No. 7914 (2013), § 2, adopted by electorate on November 5, 2013.)

Sec. 75. - Term of office-vacancies.

The term of office of each board member shall be five years. The council shall fill all vacancies.

The board shall have power to make rules for the conduct of business and shall keep accounts and records of its transactions.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951. Further amended by Ord. No. 2728 (1963), § 1, adopted by electorate on November 5, 1963. Further amended by Ord. No. 5575 (1993), § 1, adopted by electorate on November 2, 1993.)

Sec. 76. - Organization and procedure of planning board.

The board shall choose a chair, a vice chair, and a secretary who may or may not be a member of the board. If not a member, the compensation of the secretary, if any, shall be fixed by the council. If a director of planning has been appointed, the director may be designated as secretary. The board shall have regular meetings once a month, and special meetings may be called at any time by the chair and two members. Four members shall constitute a quorum, and an affirmative vote of at least four shall be necessary to authorize any action of the board.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 77. - Director of planning.

A director of planning, who shall be qualified by special training and experience in the field of city planning, may be appointed on a part-time or full-time basis by the city manager and shall be removable by the city manager. The director of planning shall be the regular technical advisor of the board and shall have administrative direction of the planning department. The director may be designated as the secretary of the planning board and authorized to perform other necessary functions.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 78. - Functions.

The planning department shall:

- (a) Prepare and recommend to the city council a general plan, with necessary maps, plats, charts, and descriptive and explanatory materials, for the physical improvement and development of the city, including therein,
 - (1) The general location, character, and extent of streets, bridges, parks, waterways, and other public ways, grounds, and spaces;
 - (2) The general location of public buildings and other public property, within and without the city limits, including watersheds, water systems, reservoirs, sewer and drainage systems, facilities for the sanitary disposal of garbage and other wastes, airports, vehicle parking facilities, and all other public properties and facilities necessary for the proper development of the city;
 - (3) The general location and extent of public utilities, including public transportation facilities, whether publicly or privately owned;
 - (4) The removal, relocation, widening, extension, narrowing, vacation, abandonment, or change of use of existing or future public ways, grounds, spaces, buildings, property, or utilities;
 - (5) An adequate and equitable system of financing public improvements;
- (b) Review the general plan periodically and recommend to the city council desirable amendments and additions to the plan;
- (c) Submit annually to the city manager, not less than thirty days prior to the date for submission of the city manager's proposed budget to the city council, a list of recommended capital improvements to be undertaken during the forthcoming six-year period;

The list shall be arranged in order of preference, with recommendations as to which projects shall be completed each year. Each list of capital improvements shall be accompanied by a six-year capital budget indicating estimated costs and methods of financing all improvements;

- (d) Prepare and recommend to the city council a zoning plan dividing the city into building districts or zones and regulating the uses of land and the height, area, bulk, and uses of public and private buildings and structures;
- (e) Prepare and recommend to the city council minimum housing ordinances, building codes, and other measures necessary to promote the health, safety, and general welfare of the people of the city;
- (f) Prepare and recommend to the city council regulations governing the process of land subdivision;
- (g) Exercise control over all public improvements in accordance with the provisions of Section 80
- (h) Exercise control over platting, opening, and annexing subdivisions in accordance with the provisions of Sections 81 and 82
- (i) Cooperate with other governmental planning agencies on all planning matters affecting the city;
- (j) Encourage proper planning by all departments of the city, request necessary assistance from other departments, and integrate, to the extent possible, the planning activities of other departments into the general plan of the city; and

- (k) Within its budget appropriations, contract when necessary with city planners and other consultants for technical services.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951. Further amended by Ord. No. 8270 (2018), § 3, adopted by electorate on November 6, 2018.)

Sec. 79. - Notice of pending plans or ordinances.

Any officer or department whose duty it is to prepare ordinances and resolutions relating to the location of any public improvement, which may be considered by the planning board a part of the comprehensive plan - including specifically the location of any public building, or the location, extension, widening, enlargement-ornamentation, or parking of any street, boulevard, alley, parkway, playground, or other public grounds, or the vacation of any street, or any other alteration of the city plan of streets and highways, or the location of any bridge, tunnel, or subway, or of any surface, underground or elevated railway or public utility, or any ordinance relating to housing, building codes or zones - shall, prior to the submission to the proper board or officer of the municipality of the ordinance or resolution required to be adopted before such proceedings are instituted, give notice to the board of the pendency (before the officer or department) of proceedings with reference to any of the above matters.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 80. - Improvements to conform with plan.

Whenever the planning board shall have made a general plan of the municipality or of any portion thereof in accordance with Section 78 of this charter, no public improvement shall be authorized to be constructed in the city until approved by the board; provided, that in case of disapproval, the board shall communicate its reasons to the council and to the director of that department which has control of the construction of the proposed improvement; and the council by majority vote shall have the power to overrule such disapproval. If the reasons for disapproval are not given to the council and to said department director within twenty days after the plans for the public improvement are submitted to the board, such plan shall be deemed to be approved by the board.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 81. - Approval of plats.

All plans, plats, or replats of lands laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits shall be submitted to the planning board and be approved by it before such plans or plats shall be recorded. And no such plan or plat shall be entitled to record in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the board. The disapproval of any such plan, plat, or replat by the board shall be deemed a refusal of the proposed dedication shown thereon. The approval of the board shall be deemed an acceptance of the proposed dedication but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedicated parks until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvements; and owners and purchasers shall be deemed

to have notice of the published plans, maps, and reports of the board affecting such property within its jurisdiction.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 82. - Admission of subdivision.

All plans and plats of tracts or additions sought to be annexed or admitted to the city shall be first submitted to the planning board for approval.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 83. - Reports of department.

The department shall make annual reports to the council upon the request of the council. A representative of the board shall have a right to appear before the council to make its recommendations and shall be given due hearing.

(Amended by Ord. No. 1632 (1951), § 4, adopted by electorate on November 6, 1951.)

Sec. 84. - Height limit.

All buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet. This height limit shall not apply to:

(a) Spires, belfries, cupolas, or domes not used for human occupancy, nor to silos, parapet walls, cornices without windows, antennas, chimneys, ventilators, skylights, or other necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area, nor to

(b) Light poles at government-owned recreation facilities, nor to

(c) Light and traffic signal poles in the right-of-way, nor to service and transmission line electrical utility poles, nor to

(d) Renewable energy improvements carried on or above the roof level.

"Height" means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

The purposes of this height limitation are to promote the health, safety, and general welfare of the community; to secure safety from fire, panic, wind turbulence, and other dangers; to provide adequate light and air to abutting properties and the neighborhood; to prevent the overcrowding of land; to avoid undue concentration of population; to prevent the encroachment of privacy; to lessen traffic congestion in the streets; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to insure personal safety by encouraging intensive use at the sidewalk level; to encourage the most appropriate use of land; to conserve and enhance property values; to preserve the integrity and character of established neighborhoods; to preserve scenic views of the mountain backdrop, which are a unique asset to the community and provide a distinctive character and setting for the city and which provide an attraction to tourists, visitors, and students of the University of Colorado; and to protect a public investment of over \$3,000,000.00 in the mountain backdrop.

Notwithstanding anything to the contrary in this Section 84, the following provisions shall apply solely to that portion of the area known as Boulder Crossroads which is delineated by (i) the northern boundary line of Arapahoe Avenue, (ii) the southern boundary line of Canyon Boulevard as extended eastward to 30th Street, (iii) the eastern boundary line of 28th Street, and (iv) the western boundary line of 30th Street:

Subject to approval through the development review process, "height" shall be defined as the vertical distance measured from the Federal Emergency Management Agency's flood protection elevation at 28th Street of 5,288 feet, as determined in accordance with the North America Vertical Datum of 1988, to a plane above such elevation.

(Amended by Ord. No. 1219 (1929), § 1, adopted by electorate on November 5, 1929. Further amended by Ord. No. 1632 (1951), § 5, adopted by electorate on November 6, 1951. Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on January 31, 1961. New section 84 added by Res. No. 24a (1971), § 2, adopted by electorate on November 2, 1971. Amended by Ord. No. 5220 (1989), § 1, adopted by electorate on November 7, 1989. Further amended by Ord. No. 6013 (1998), § 2, adopted by electorate on November 3, 1998. Further amended by Ord. No. 7736, § 2, adopted by electorate on November 2, 2010.)

Sec. 84A. - Board of zoning adjustment.

There shall be a board of zoning adjustment with such powers, jurisdiction, and authority as the city council shall by ordinance provide relating to zoning matters. The membership, terms of office, method of appointment and all other matters relating to the board of zoning adjustment shall be as the city council shall by ordinance provide.

(Added by Ord. No. 1632 (1951), § 6, adopted by electorate on November 6, 1951. Amended by Ord. No. 3513 (1969), § 1, adopted by electorate on November 4, 1969.)

Sec. 84B. - Disposition of park properties.

(Added by Ord. No. 1632 (1951), § 7, adopted by electorate on November 6, 1951. Repealed by Ord. No. 2392 (1961), § 1, adopted by electorate on November 6, 1961.)

TITLE 2 GOVERNMENT ORGANIZATION

Chapter 7 - Code of Conduct

2-7-1. - Purpose, Legislative Intent and Findings.

- (a) Purpose: The purpose of this chapter is to protect the integrity of city government by:
 - (1) Defining and forbidding certain activities including bribery and profiteering from public office.
 - (2) Establishing high standards of conduct for elected officials, appointed board and commission members and city employees by setting forth certain expectations of behavior that all such individuals shall maintain while elected, appointed or employed by the City of Boulder.
 - (3) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.
- (b) Legislative Intent: It is the intent of the city council to:
 - (1) Establish rules of conduct that meet or exceed the rules established by the Colorado State Constitution and the Colorado Revised Statutes.
 - (2) Establish expectations to encourage public officials and public employees to maintain the highest standard of conduct to justify the public trust that they enjoy.
 - (3) Exercise the City of Boulder's right to develop laws related to ethics in local government and appropriate standards of local conduct as matters of local concern as established by the Colorado State Constitution in Article XX recognized by Article XXIX, § 3(6).
- (c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety, and welfare of the residents of Boulder and is a matter of local concern.

Ordinance No. 7957 (2014)

2-7-2. - Prohibited Acts.

- (a) Personal Benefit Prohibited: No public official or public employee shall solicit, receive or accept anything of value in exchange for performing or refraining from performing any act associated with the official or employee's position with the city.
- (b) Use of Position for Gain Prohibited: No public official or public employee shall use his or her public office or position for financial gain.
- (c) Use of Confidential Information for Financial Gain Prohibited: No public official or public employee shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

Ordinance No. 7957 (2014)

2-7-3. - Duty to Maintain the Confidentiality of Privileged Information.

- (a) Duty of a Public Official: No public official shall disclose privileged or confidential information without a public majority vote granting the permission of the council or similar body that holds the privilege. The sanction for a member of the city council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.
- (b) Duty of a Public Employee: No public employee shall disclose privileged or confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the city manager acting upon the advice of the city attorney.

Ordinance No. 7957 (2014)

2-7-4. - Gifts to Public Officials and Public Employees.

- (a) Gifts Prohibited: No public official or public employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor, a discount or a promise of future employment if:
 - (1) The official or employee is in a position to take official action with regard to the donor; or
 - (2) The city has or is known to be likely to have a transactional, business, or regulatory relationship with the donor.
- (b) Exceptions and Items not Considered Gifts: The following shall not be considered gifts for purposes of this section, and it shall not be a violation of this chapter for a person to accept the same:
 - (1) Campaign contributions as permitted by law;
 - (2) An unsolicited, occasional non-pecuniary gift of a maximum amount of \$53 or less in value. The maximum amount will be equal to the amount established by the state of Colorado pursuant to Colorado Constitution Article XXIX, Section 6;
 - (3) A gift from a relative;
 - (4) An award, publicly presented, in recognition of public service;
 - (5) Reasonable expenses for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:
 - (A) The travel is for a legitimate city purpose;
 - (B) The travel arrangements are appropriate to that purpose;
 - (C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;
 - (D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor;

- (E) Prior to travelling, the public official informs the city council or the employee informs the city manager of the name of the party paying for the travel expenses and the reason for the travel; and
 - (F) After completing the travel, the public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.
- (6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and
 - (7) A single unsolicited ticket given to a city council member and valued at not in excess of \$150 to attend events on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:
 - (A) The ticket is offered only to the council member and has no resale value; and
 - (B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city.
 - (8) A single unsolicited ticket given to a council member and valued at not in excess of \$150 in each calendar year to attend a sporting event, concert or other event provided by a governmental entity or nonprofit organization, if the event is sponsored by the governmental entity or nonprofit organization, and the purpose of attending the event is to promote the relationship between the city and the other governmental entity or nonprofit organization.

Ordinance No. 7957 (2014)

2-7-5. - Prior Employment, Outside Employment, and Subsequent Employment.

- (a) **Prior Employment:** No person shall be disqualified from service with the city as a public official or public employee solely because of his or her prior employment. Public officials and public employees shall not take any action with respect to their former employers for a period of six months from the date of termination of the prior employment if such action involves an exercise of discretion by the public official or public employee and provides direct benefit to the prior employer, including but not limited to a contract, lease, employment or regulatory approval.
- (b) **Disclosure of Employment and Other Business Activities:** All public employees, shall report existing or proposed outside employment or other outside business interests that may affect their responsibilities to the city in writing to their appointing authorities prior to being appointed or hired. After being appointed or hired, all such people shall report any changes of employment or changes to outside business interests that may affect the person's responsibilities to the city, within thirty days after accepting the same. An employee that has received permission from the city manager may engage in outside employment or outside business interests.
- (c) **Disclosure by Public Officials:** Public Officials shall report any change in their employment status that could give rise to a conflict of interest under this chapter.
- (d) **Activities That Occur After Termination of Employment or Office:** No former public official or public employee shall seek or obtain employment concerning matters upon which he or she took any action during his or her service with the city for six months following termination of office or employment if such action, occurred less than four years prior to seeking or obtaining employment, involved an

exercise of discretion by the public official or public employee and provided direct benefit to the employer, including but not limited to a contract, lease, employment or regulatory approval. This provision may be waived by the city council or the city manager.

- (e) Participation of Former Officials or Employees: No former public official or public employee shall appear before, or participate in, a city board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the city for twelve months following termination of office or employment. This prohibition may be waived by the city council by appointment or vote. This prohibition shall not apply to persons who appear before the city in their capacity as an elected official following termination of their office or employment with the city.
- (f) Participation in Litigation After Termination: No former public official shall engage in any action or litigation in which the city is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the city for twelve months following termination of service with the city.

Ordinance No. 7957 (2014)

2-7-6. - Employment of Relatives.

- (a) No public official or public employee shall appoint, hire, or advocate the appointment or hiring by the city any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the city a person who is the employee's relative may cause an appearance of violating this section, the employee may request that the city manager make such decision on the employee's behalf. Council-appointed officers may request the city council to make such an appointment or hiring decision on their behalf.
- (b) The city may enter into transactions with companies, corporations or other business organizations that employ a relative of a city public official or public employee provided that:
 - (1) The public official or public employee does not participate in the decision making that leads to hiring the company, corporation, or other business organization that employs his or her relative; or
 - (2) The business organization is a publicly-traded corporation that provides its services or products to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or
 - (3) The company, corporation, or business organization has been doing business with the city for at least one year prior to the date the city official's or employee's relative became employed by the company, corporation or other business organization, and the city official's or employee's relative is not directly employed upon matters involving the city and does not have his or her compensation tied in any manner to the success of the company, corporation, or other business organization, or its ability to obtain business or earn compensation from the city.

Ordinance No. 7957 (2014)

2-7-7. - Representing Others Before the City Prohibited.

- (a) **City Council Members Barred From Representing Others:** No city council member shall appear on behalf of himself or herself, or another person, before the city council or any city board, commission, task force or similar body. A city council member may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before such a body if the council member discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981. This prohibition shall not apply when a city council member is appointed by a majority vote of the council to represent the council before a board or commission.
- (b) **Board, Commission or Task Force Members Barred From Representing Others:** An appointee to a city board, commission, task force or similar body may appear or be affiliated with a firm appearing concerning any transaction with the city under the following circumstances:
 - (1) An appointee may appear on his or her own behalf before the body of which he or she is a member to represent his or her personal interests, if the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;
 - (2) An appointee may appear on behalf of another person before any city body except the body of which the appointee is a member, except with respect to a matter that has or may come before the board or commission on which he or she serves;
 - (3) A firm with which an appointee is affiliated may not appear on behalf of or be employed by another person concerning any transaction before the body of which the appointee is a member unless the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981.
- (c) **Public Employees Barred From Representing Others:** No public employee shall appear on behalf of or be employed by another person concerning any transaction with the city or before the city council or any city board, commission, task force or similar body. A public employee may appear before such a body on his or her own behalf or on behalf of such employee's spouse, parent, or child. Nothing in this chapter shall be deemed to prohibit the city manager from establishing additional policies and regulations to prevent conflicts of interest between public employees and the city.
- (d) **City Council Members and Municipal Court:** No city council member who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm appearing on behalf of or employed by another person concerning any matter before the municipal court.
- (e) **Public Employees and Municipal Court:** No public employee who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm that appears on behalf of or is employed by another person concerning any matter before the municipal court. A non-attorney employee may appear before the municipal court on his or her own behalf, and an employee other than a municipal court judge may appear on behalf of such employee's spouse, parent, or child to the extent otherwise allowed by law. This authority is intended to allow employees to assist family members in matters before the municipal court to the extent permitted by law but not to promote the unauthorized practice of law.
- (f) **Board, Commission, or Task Force Member and Municipal Court:** An appointee to a city board, commission, task force or similar body may appear before the municipal court and may be affiliated with a firm appearing before the municipal court.

- (g) Consent to Sue: No public official shall by himself or herself or as an affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the public official first obtains the consent of the city council.

Ordinance No. 7957 (2014)

2-7-8. - Expectations.

- (a) These expectations are intended to establish ethical standards to guide public officials and public employees in the execution of their offices in a manner that will reflect well on the city and promote the public's trust in local government.
- (b) Compliance with this section will not constitute a defense for violation of another subsection or section of this chapter. Violation of this section may be considered as the basis for censure of a public official, or in the most serious cases, removal of a board or commission member. Violation of this section may be the basis of disciplinary action, or in the most serious cases, termination of a public employee.
- (c) A public official who determines that his or her actions may be considered to be in violation of this section should consider disclosure and discussion of the potential violation in a public meeting before the council, board, commission, task force or similar body on which the person serves.
- (d) A public official whose participation in a matter would violate this section shall recuse herself or himself as prescribed by Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981.
- (e) A public official or public employee shall:
 - (1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.
 - (2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.
 - (3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.
 - (4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.
 - (5) Act within the boundaries of his or her authority as defined by the city charter and code.
 - (6) Treat colleagues and members of the public professionally and with courtesy.
 - (7) Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the city, if the official or employee has any authority to exercise discretion over the business relationship.
 - (8) Disclose any benefit he or she will receive from any matter requiring the exercise of discretion by the officer or employee.
 - (9) Use city resources, facilities and equipment only for city purposes, except for reasonable incidental personal use that does not interfere with city business.
 - (10) Disclose waste, fraud, abuse and corruption to appropriate authorities.
- (f) A public official or public employee shall not:
 - (1) Advocate or support any action or activity that violates a law or regulatory requirement.

- (2) Use his or her position or decision-making authority for his or her benefit.
- (3) Expend city funds for his or her personal use or benefit.
- (4) Misrepresent known facts in any issue involving city business.
- (5) Exercise authority or discretion in any matter in which he or she will benefit as a result of that exercise of authority or discretion.
- (6) Use city resources, facilities or equipment for personal profit, for outside business interests or to access any inappropriate material, except if viewing such material is a necessary and proper part of their duties.
- (7) Participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position with the city.
- (8) Supervise a relative in the performance of the relative's official powers or duties.
- (9) Compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- (10) Act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any employee, or an applicant for a position, including appointment to a board or commission, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (11) Solicit or accept anything of value from anyone doing business with the city.
- (12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment.
- (13) Use his or her public position to obtain a benefit for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship.
- (14) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest.
- (15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests impropriety, favoritism, or bias by the city or the official or employee.
- (16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, except that public officials may identify themselves and their position as public officials supporting or opposing candidates or ballot measures.
- (17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in for personal profit or advantage.
- (18) Use city resources, facilities or equipment to support or oppose any political candidate or ballot measure.

2-7-9. - Disclosure and Recusal Procedure.

- (a) Disclosure and Recusal: No person with an interest prohibited pursuant to Section 2-7-2, B.R.C. 1981, and no person described in Subsection 2-7-7(a) or (b), B.R.C. 1981, shall fail to give written notice of the interest described in such section or subsection to the city council or the city board, commission, task force or similar body of which the person is a member and the city manager as soon as reasonably possible after the interest has arisen. However, no written notice is required if such person discloses the conflict of interest on the record of a public meeting of the city council or the city board, commission, task force or similar body of which the person is a member. The interested council member, employee, or appointee shall thereafter:
 - (1) Refrain from voting upon or otherwise acting in an official capacity in such transaction;
 - (2) Physically absent himself or herself from the room in which a matter related to such transaction is being considered; and
 - (3) Not discuss any matter related to such transaction with any other member of the council, board, commission, task force or similar body of which the person is a member.
- (b) Recusal by the Council, Board, Commission, Task Force or Similar Body: The city council and any city board, commission, task force or similar body may order recusal of one of its members if that member has an obligation to do so under this chapter and has failed to do so. Such an order is valid if reached after majority vote of the members of the body, not including the member whose recusal is sought, based on competent evidence.

Ordinance No. 7957 (2014)

2-7-10. - Enforcement.

- (a) Violations Prohibited: No person shall violate the requirements of this chapter.
- (b) Complaints: A complaint alleging a violation of this chapter may be initiated by any of the following:
 - (1) Complaints Initiated by the City Manager or City Attorney: The city manager or city attorney may initiate an investigation of any city employee, other than those directly reporting to the city council, if facts are alleged to the city manager in any form that, if true, would constitute a violation of the provisions of this chapter.
 - (2) Complaints Initiated by a Resident or City Employee: A resident of the City or any city employee may initiate an investigation of any city council member, employee or appointee to a city board, commission, task force or similar body by filing a sworn statement with the city clerk setting forth facts which, if true, would constitute a violation of a provision of this chapter.
 - (3) Complaints Initiated by the City Council: The city council may initiate an investigation of any of its employees, and of any city council member or appointee to a city board, commission, task force or similar body if facts are alleged to the council that, if true, would constitute a violation of the provisions of this chapter.
- (c) Investigation of a Complaint: The city manager (for city employees) or the city council (for all others) shall request the city attorney to conduct an investigation regarding a violation of this chapter. The city attorney may request that the city council appoint special counsel to investigate and prosecute any case that may cause the city attorney to have a conflict of interest or may cause an appearance

of impropriety under the provisions of this chapter, or may violate any rule regarding professional responsibility.

- (d) Response to All Complaints Required: A public official, or body or appointee thereof, conducting an investigation pursuant to Subsection (b) of this section shall prepare written findings of fact and conclusions of law in response to all complaints that shall be made available to the public upon completion of the investigation. The response may include a finding that the complaint has no merit, is frivolous, is groundless or is brought for purposes of harassment.
- (e) Limitations: No action may be taken on any complaint that is filed later than twelve months after discovery of the facts supporting an allegation that a violation of this chapter occurred.

Ordinance No. 7957 (2014)

2-7-11. - Sanctions and Remedies for Violation.

- (a) Transactions Voidable: If a transaction including but not limited to a contract or sale is consummated contrary to the provisions of Subsection 2-7-2(a), B.R.C. 1981, the city council may void the transaction.
- (b) Removal by City Council: The city council may remove any of its employees and any member of a city board, commission, task force or similar body that it finds has willfully violated any provision of this Section. 2-7-10 "Enforcement," B.R.C. 1981.
- (c) Sanction Recommendations: If the party conducting an investigation pursuant to Section 2-7-10, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee to a city board, commission, task force or similar body, or employee has violated any provision of this chapter, the investigator shall provide its findings and recommendations to the city manager or city council, as appropriate, who or which in turn may take any of the following actions:
 - (1) In the case of a city council member, a motion of censure;
 - (2) In the case of a public employee, a motion for censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee;
 - (3) In the case of a member of a board or commission removal as provided in subsection (b) of this section; or
 - (4) As an alternative or in addition to the sanctions imposed herein, the city council may resolve that any person or entity causing, inducing, or soliciting a public official or public employee to violate this chapter may not be involved in any transaction with the City, including but not limited to the award of any city contract, grant, loan or any other thing of value for a period of twelve months or that any such contract, grant, loan or thing of value be terminated, repaid or forfeited.
- (d) Civil Remedies: Any person incurring actual monetary damage as a direct and proximate result of a violation of Section 2-7-2, "Prohibited Acts," B.R.C. 1981 or Section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 may commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with Subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon.

No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.

- (e) Criminal Sanctions: The city attorney, or special counsel authorized to act on behalf of the city attorney, acting on behalf of the people of the city, may prosecute any violation of Section 2-7-2, "Prohibited Acts," B.R.C. 1981 or Section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 in municipal court in the same manner that other municipal offenses are prosecuted.

Ordinance No. 7957 (2014)

2-7-12. - Role of the City Attorney.

- (a) Any city council member, employee, or appointee to a city board, commission, task force or similar body may request an advisory opinion of the city attorney whenever a question arises as to the applicability of this chapter to a particular situation.
- (b) Appointment of Outside Counsel: If the city attorney has a conflict of interest or a matter arise in which the city attorney believes that a reasonable person would question his or her objectivity, the city attorney shall appoint a neutral outside counsel to investigate the issue and make a recommendation.

Ordinance No. 7957 (2014)

2-7-13. - Exemptions From Chapter.

Nothing in this chapter shall be deemed to apply to a city employee or appointee to a city board, commission, task force or similar body who appears before any such body to urge action on a policy or issue of a general civic nature or to the relationship between the city council, the city and a general improvement district. Participation in an improvement district shall not, in and of itself, constitute a conflict of interest for a city council or improvement district advisory committee decision concerning the district.

Ordinance No. 7957 (2014)

2-7-14. - Definitions.

Affiliated with means an employee, partner, agent, stockholder, joint venturer or corporate director of any business organization or a person who shares office space with such organization.

Appear on behalf of means to act as a witness, advocate or expert or otherwise to support or oppose the position of another person.

Benefit shall mean anything of value accruing to an official or employee. A benefit shall not include any situation in which the official, employee or family member has only a remote interest. A benefit does not include things that affect the entire membership of a significant class or a significant segment of the community in a similar manner as the affected public official or employee. An official or employee is deemed to have received a benefit if any of the following receive a benefit:

- (1) A Family Member;

- (2) Any person or business entity with whom a contractual relationship exists with the official or employee;
- (3) Any business entity in which the official or employee is an officer or director; or
- (4) Any business entity in which the official or employee has a stock, legal ownership, or beneficial ownership of at least five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the official or employee.

Employment means providing personal services as an employee or an independent contractor, with or without consideration.

Family Member shall mean a spouse, domestic partner, partner in a civil union, child, and whether related through adoption or marriage, a parent, brother or sister.

Gift means any payment, entertainment, subscription, forbearance, service or any other thing of value, rendering or deposit of money, which is transferred to a donee directly or in trust for his or her benefit. Gift shall not include campaign contributions as permitted by law.

Official action means any legislative, administrative or quasi-judicial act of any public official or employee including, without limitation, participation in, or influence of, the decision-making process leading up to a vote or final determination.

Public employee or employee means any person holding any paid position of employment with the City, but shall not include consultants or contractors who have independent control over their work product.

Public Official shall mean any elected or appointed city official, including city council members and members of boards and commissions.

Relative means any person related to a public official or an employee by blood, marriage or adoption, through the second degree of consanguinity, including, without limitation, the following: spouse, parents, parents-in-law, children, children-in-law, brothers and sisters, brothers and sisters-in-law, grandparents, grandchildren, aunts, uncles, cousins, nephews and nieces. A separation between spouses shall not be deemed to terminate relationships described above which exist only because of marriage.

Remote Interest shall mean any interest which is incidental to the contract or transaction and shall include:

- (1) A position as a non-salaried director, officer or employee of a non-profit corporation or organization;
- (2) Less than five percent of the total stock or total legal and beneficial ownership in a business entity;
- (3) A position of employment held by a family member which is not a director, officer, manager or supervisor in a business entity;
- (4) A position of employment held by a family member which does not directly exercise decision making authority affecting the contract or transaction; or
- (5) A position in a representative capacity such as a receiver, trustee or administrator.

Ordinance No. 7957 (2014)

2-7-15. - Examples of Violations.

The examples in this paragraph are intended to provide guidance for the implementation of these rules. These are examples only; behavior not listed here also can violate these rules.

The following acts would constitute a violation of this chapter:

- (a) A person lies to a constituent in violation of Paragraph 2-7-8(f)(4), B.R.C. 1981.
- (b) A person favors a personal friend when awarding a city contract in violation of Paragraph 2-7-8(f)(13), B.R.C. 1981.
- (c) A person fails to disclose a professional relationship with a firm seeking to do business with the city in violation of Paragraph 2-7-8(e)(7), B.R.C. 1981.
- (d) A person fails to disclose owning stock in a company involved in a matter that requires the exercise of discretion by the person in violation of Paragraph 2-7-8(e)(8), B.R.C. 1981.
- (e) A person uses a city computer to operate a personal business in violation of Paragraph 2-7-8(e)(9), B.R.C. 1981.
- (f) A person uses a city phone for a political campaign in violation of Paragraph 2-7-8(f)(18), B.R.C. 1981.
- (g) A person fails to disclose fraud by a public employee in violation of Paragraph 2-7-8(e)(10), B.R.C. 1981.
- (h) A person arranges a repaving project that benefits his or her neighborhood in violation of Paragraph 2-7-8(f)(2), B.R.C. 1981.
- (i) A council member participates in a decision that affects the value of his or her real property in violation of Paragraph 2-7-8(f)(2), B.R.C. 1981.
- (j) A person uses city photocopies machines to make 100 flyers to advertise a personal business Paragraph 2-7-8(f)(3), B.R.C. 1981.
- (k) A person makes verbal attacks against someone who contacted the city for information in violation of Paragraph 2-7-8(e)(2), B.R.C. 1981.
- (l) A person recommends that his or her department hire his or her niece in violation of Paragraph 2-7-8(f)(7), B.R.C. 1981.
- (m) A person supervises his or her spouse in violation of Paragraph 2-7-8(f)(8), B.R.C. 1981.
- (n) A council member seeks a campaign contribution from a public employee in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (o) A supervisor encourages employees to attend a campaign fundraiser for a council member in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (p) A supervisor implicitly requires an employee to make a campaign contribution as a condition of receiving a positive evaluation in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (q) A person accepts a lunch from a person seeking to do business with the city in violation of Paragraph 2-7-8(f)(11), B.R.C. 1981.
- (r) A person seeks employment with a contractor whom the person previously hired to work for the city in violation of Paragraph 2-7-8(f)(12), B.R.C. 1981.

- (s) A person obtains an internship for his or her son with a company doing business with the city in violation of Paragraph 2-7-8(f)(13), B.R.C. 1981.
- (t) A board member who is an architect participates in a decision in which his or her firm represents the applicant in violation of Paragraph 2-7-8(f)(5), B.R.C. 1981.
- (u) A board member who is an attorney participates in a decision in which his or her firm represents a party to the transaction being considered in violation of Paragraph 2-7-8(f)(5), B.R.C. 1981.
- (v) A person endorses a business using his or her city title in violation of Paragraph 2-7-8(f)(15), B.R.C. 1981.
- (w) A person solicits work for his or her off-duty business, by advertising his or her work as a City of Boulder employee in violation of Paragraph 2-7-8(f)(17), B.R.C. 1981.
- (x) A council member solicits business by relying upon his or her position as a city council member in violation of Paragraph 2-7-8(f)(17), B.R.C. 1981.

Ordinance No. 7957 (2014)

TITLE 1 GENERAL ADMINISTRATION

Chapter 1-3 - Quasi-Judicial Hearings

1-3-1. - Legislative Intent and Application of Chapter.

The following rules of procedure are intended to provide a uniform, consistent, and expeditious method for conducting quasi-judicial hearings held by city officers, employees, departments, divisions, boards, commissions, and the city council, and to afford persons due process of law. An agency may supplement the provisions of this chapter by adopting further rules of procedure not inconsistent herewith. An agency may grant the opportunity for public testimony and shall permit public testimony whenever required by city charter, ordinance, or code, or state or federal constitution or law. This chapter applies whenever a quasi-judicial hearing is required by any provision of the city charter, ordinance, or code, or state or federal constitution or law, unless another procedure is provided by city charter, ordinance, code, or contract, or state or federal constitution or law. Nothing in this chapter shall be interpreted to grant any person the right to appeal to any agency or to have a hearing before it unless a specific provision of the city charter, ordinance, or code, or state or federal constitution or law grants such a right. This chapter does not apply to any pre-disciplinary procedures involving any employee of the city.

Ordinance Nos. 4879 (1985); 5202 (1989)

1-3-2. - Definitions.

As used in this chapter:

Agency means the city council and any officer, employee, department, division, or other agency of the City of Boulder, including boards and commissions but excluding the municipal court.

Interested person means any person described as interested by city charter, ordinance, or code, or state or federal constitution or law, or any person having a legally protected interest under the city charter, ordinance, or code, or state or federal constitution or law that is subject to potential injury in fact due to proposed final agency action, or any person having a right of appeal from proposed final agency action by virtue of a specific provision of the city charter, ordinance, or code, or state or federal constitution or law. ^[8] Interested person may include a city agency.

Party to a hearing means any interested person who requests a hearing, appears at a hearing, or submits a written entry of appearance at or before a hearing.

Pre-disciplinary procedures means any and all activities conducted by supervisory personnel of the city prior to imposition of disciplinary action.

Proponent of an order means the party requesting proposed final agency action.

Ordinance Nos. 4879 (1985); 5202 (1989)

1-3-3. - Notice of Agency Action.

- (a) Except as provided by Section 1-3-4, "Exception for Emergencies," B.R.C. 1981, no agency may take final agency action subject to this chapter unless, before taking such proposed action, the agency has given all known interested persons notice by hand delivery, posting on the property subject to agency action, regular mail, or publication once in a newspaper of general circulation in the city of:

- (1) The proposed agency action;
- (2) The legal authority under which it is proposed to be taken;
- (3) The opportunity for any interested person to submit written data, views, and arguments with respect to such proposed action; and
- (4) Either:
 - (A) The date of a hearing if city charter, ordinance, or code, or state or federal constitution or law requires a hearing without a request therefor before proposed agency action; or
 - (B) The opportunity for any interested person to request a hearing on such proposed agency action by filing a written request therefor that is received by the agency no more than ten days after the date the notice is deposited in the mail, hand delivered, posted, or published.

Notice shall be given at least ten days before the date of the hearing. If the notice is mailed, it is given when mailed to the address shown on the license, permit, or application in question or in the records of the county clerk or tax assessor, or any other official custodian of public records of property ownership for any specific property in question. For purposes of this subsection, public records means those records defined in § 24-72-202(6), C.R.S.

- (b) If an interested person requests a hearing as prescribed by subparagraph (a)(4)(B) of this section, the agency shall give notice at least ten days before the hearing of the date, time, place, and nature of the hearing to all known interested persons. Unless otherwise provided by city charter, ordinance, or code, or state or federal constitution or law, such notice shall be given to the person first requesting the hearing upon depositing the notice in the mail or hand delivering the notice at least ten days before the date of the hearing to the last address furnished to the agency by the person requesting the hearing. The agency shall notify all other known interested persons by the means specified in Subsection (a) of this section of the date, time, place, and nature of the hearing; that they may participate in the hearing; and that failure to appear at the hearing waives any hearing right.

1-3-4. - Exception for Emergencies.

- (a) The requirements of prior notice and hearing in Section 1-3-3, "Notice of Agency Action," B.R.C. 1981, do not apply when the agency determines that the public health, safety, or welfare requires emergency agency action pending a hearing. If the agency takes emergency action, it shall provide timely notice of the action and shall thereafter provide the notices required by Section 1-3-3, "Notice of Agency Action," B.R.C. 1981, and an opportunity for a post-emergency action hearing to interested persons by the means prescribed by Section 1-3-3, "Notice of Agency Action," B.R.C. 1981.
- (b) Nothing in this chapter shall be deemed to prohibit an agency from ordering interim relief to preserve the status quo pending a hearing.

Ordinance No. 5099 (1988)

1-3-5. - Hearings and Determinations.

- (a) The agency may charge a fee for a hearing, if so authorized by city code or ordinance. The hearing officer or agency may waive or refund the fee upon a showing of undue hardship.

- (b) Any interested person shall be admitted as a party to the hearing upon filing a written entry of appearance before the hearing, setting forth a brief and plain statement of the facts that entitle such person to be admitted and the matters that the person claims should be decided.
- (c) The hearing shall be conducted by the agency; by an employee, agent, or subcommittee of the agency; or by one or more hearing officers who have not personally determined the factual issues in controversy at the hearing and have no personal financial interest in the outcome of the hearing. In its discretion the agency may, but need not, appoint an employee of the city or other person possessing qualifications acceptable to the agency as a hearing officer to hear and receive evidence and render a decision on the law and the facts. The hearing officer has all the authority possessed by the agency to render decisions. While presiding at a hearing, the agency or hearing officer shall determine whether the proposed agency action comports with the requirements and standards in the applicable provisions of city charter, ordinance, or code, or state or federal constitution or law.
- (d) The agency or hearing officer has authority to administer oaths and affirmations; sign and issue subpoenas; waive or refund hearing fees; rule upon offers of proof; compel testimony; receive evidence; dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying, or photographing; regulate the course of the hearing; set the time and place for continued hearings; fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider simplification of issues, admissions of facts, or documents to avoid unnecessary proof, and limitation of the number of witnesses; issue appropriate orders that control the subsequent course of the proceeding; dispose of motions; and control the decorum and conduct of the proceeding.
- (e) All testimony shall be taken under oath or by affirmation.
- (f) No person shall fail to comply with the orders of the agency or hearing officer at the hearing. Violation of this requirement may be prosecuted in municipal court in the same manner that other municipal offenses are prosecuted.
- (g) The proceedings of the hearing shall be recorded through tape recording, stenographic, or other verbatim reproduction, and copies of transcriptions of the proceedings shall be available, upon payment of the reasonable costs thereof, to the parties to the hearing.
- (h) Unless otherwise provided by city charter, ordinance, or code, or by state or federal constitution or law, the proponent of an order has the burden of proof, and every party to the proceeding has the right to present such party's case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

The agency or hearing officer may receive all or part of the evidence in written form if the interests of the parties will not be prejudiced substantially and if the hearing will be expedited thereby. The rules of evidence and requirements of proof and procedure shall conform to the extent practicable to those in civil nonjury cases, but when necessary to ascertain facts affecting the substantial rights of the parties to the proceeding, the agency or hearing officer may receive and consider evidence not admissible under such rules if such evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The person conducting the hearing shall give effect to the rules of privilege required by law, may exclude incompetent and unduly repetitious evidence, and may receive documentary evidence in the form of a copy or excerpt if the copy is authenticated. The agency or hearing officer shall use its experience, technical competence, and specialized knowledge in evaluating the evidence presented to it. Parties to the hearing may make objections to evidentiary offers, which shall

then be noted in the record. In the absence of objection, the hearing may be conducted informally, and failure to request any procedure shall constitute a waiver thereof.

- (i) The agency or hearing officer may issue a decision at the hearing and shall issue a written decision with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing. The agency shall serve the decision on each party to the hearing by personal service or by mailing by regular mail to the last address furnished to the agency by the party. The decision shall be effective as to such party on the date mailed or on such other date as is stated in the decision.
- (j) Unless otherwise provided by city charter, ordinance, or code, or by state or federal constitution or law, the decision of the agency or hearing officer is final subject only to judicial review pursuant to Colorado Rule of Civil Procedure 106(a)(4). No defense or objection may be presented for judicial review unless it is first presented to the agency or hearing officer, prior to the decision thereof.

Ordinance No. 4879 (1985)

1-3-6. - Ex Parte Contacts.

No ex parte material or representation of any kind or any other communication outside the hearing shall be considered by the agency or hearing officer conducting the hearing unless it is fully disclosed on the hearing record and an opportunity is given for comment thereon at the hearing.

Part 3-

B.R.C. Title 5, Marijuana and Cannabis Offenses

Chapter 10 - Marijuana Offenses

5-10-1. - Definitions.

For purposes of this chapter, the following words shall have the following definitions:

Cannabis means Marijuana or Hemp.

Hemp or Industrial Hemp means the plant from the genus cannabis and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis. Any increase over of delta-9 tetrahydrocannabinol concentration over three-tenths of one percent on a dry-weight basis causes the cannabis to be regulated as marijuana even if was green or is intended to be sold as a hemp plant or product.

Marijuana means all parts of the plant from 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. It does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as marijuana in this subsection. Marijuana does not include Hemp or Industrial Hemp.

Registry identification card shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Underage person means any person under twenty-one years of age.

Ordinance Nos. 7892 (2013); [8393](#) (2020)

5-10-2. - Consumption of Marijuana in Public Prohibited.

- (a) No person shall consume any marijuana in public.
- (b) For purposes of this section, *in public* means:
 - (1) In or upon any public way or public right-of-way, whether in a vehicle or not;
 - (2) On any property or in any building that is owned, leased, used by, or open to the public; or
 - (3) In or upon those portions of any private property upon which the public has an express or implied license to enter or remain.
- (c) No person shall drive or sit in the driver's seat of any motor vehicle, other than one licensed to carry passengers for hire, in which a violation of Subsection (a) of this section is occurring.

Ordinance Nos. 7892 (2013); 7965 (2014)

5-10-3. - Unlawful to Sell or Give to or Procure Marijuana for Minors.

No person shall sell, serve, deliver, or give away any marijuana or any product containing marijuana to any underage person or purchase marijuana or marijuana-infused product for an underage person.

Ordinance Nos. 7892 (2013); [8393](#) (2020)

5-10-4. - Possession and Sale of Marijuana by Minors Unlawful.

- (a) No underage person shall consume, possess, or have under such person's control or request that any other person purchase for such underage person or sell, serve, give away, or offer for sale any marijuana or any product containing marijuana.
- (b) Prima facie evidence that a violation of this chapter occurred within the city shall consist of:
 - (1) Evidence that the defendant was under the age of twenty-one years and possessed or consumed marijuana within the city;
 - (2) Evidence that the defendant was under the age of twenty-one years and manifested any of the characteristics commonly associated with marijuana use or impairment while present anywhere within the city; or
 - (3) Indicia including bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, dry mouth, or any other indicator of marijuana consumption.
- (c) An underage person and one or two other persons shall be immune from criminal prosecution under this section if they establish the following:
 - (1) One of the underage persons called 911 and reported that another underage person was in need of medical assistance due to marijuana consumption;
 - (2) The underage person who called 911 and, if applicable, one or two other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;
 - (3) The underage person was the first person to make the 911 report; and
 - (4) The underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.
- (d) Upon the expiration of one year from the date of a conviction of a charge under this section, the defendant may petition the municipal court for an order sealing the record of such municipal court charge. The court shall grant such petition if the petitioner has not been arrested for, charged with, or convicted of any felony, misdemeanor, petty offense, or criminal city ordinance violation during the period of one year following the date of such petitioner's conviction of charges under this section. Upon acquittal, dismissal, or a decision not to file a charge under this section, the defendant may petition the municipal court for an order sealing the record of such municipal court charge and the court shall grant such petition.
- (e) In any judicial proceeding in any court of this state concerning a charge under this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of Tetrahydrocannabinol (THC) and of the design and operation of devices certified by the department of public health and environment for testing a person's blood, breath, saliva, or urine for the presence of Tetrahydrocannabinol (THC). This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.
- (f) It shall be an affirmative defense to a charged violation of this section that the underage person (1) on the date of the alleged offense lawfully possessed a current registry identification card issued by the state of Colorado to the underage person, and (2) possessed no more marijuana than the amount permitted by Article XVIII, Section 14 of the Colorado Constitution. Before evidence of this affirmative defense is presented to a jury, the underage person shall first provide written notice of this defense to the court and prosecution and a photocopy of the underage person's registry identification card, at least ten days prior to trial. An underage person who raises this defense waives doctor-patient privilege and confidentiality concerning the underage person's patient registry information.

Ordinance Nos. 7892 (2013); 7965 (2014); [8393](#) (2020)

5-10-5. - Evidence of Marijuana in Trials.

- (a) In any trial for a violation of this chapter, any witness with prior personal experience of the appearance, taste, or smell of marijuana may state an opinion that a substance was marijuana, based on his or her observations and experience. The witness need not be offered as an expert witness.
- (b) In any trial for a violation of this chapter, any witness may testify that a person manifested characteristics commonly associated with marijuana use if the witness has personal experience or training that would enable the witness to recognize the characteristics. The witness need not be offered as an expert witness.
- (c) In any trial for a violation of this section, any container or wrapper with labeling indicating the contents of the container or wrapper shall be admissible into evidence, and the information on any label on such container or wrapper shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the container or wrapper were composed in whole or in part of marijuana. A label identifying the contents of the container as "marijuana," "MJ," "weed," "bud," "sativa," "indica," or "kush" shall constitute prima facie evidence that the contents of the container were composed in whole or in part of marijuana.
- (d) In any trial for a violation of this section, testimony of a competent witness, including the arresting officer, that the substance possessed exhibited the smell, appearance, or other characteristics of marijuana shall be sufficient to establish that the substance in question was marijuana. The defendant may rebut such testimony with a laboratory test, performed at the defendant's expense demonstrating that the substance was not marijuana.

Ordinance No. 7892 (2013)

5-10-6. - Reserved.

Editor's note— Ordinance No. [8393](#), § 3, adopted July 7, 2020, repealed § 5-10-6, which pertained to marijuana odor emissions and derived from Ordinance Nos. 7931 (2013); [8240 \(2018\)](#).

5-10-7. - Unlawful to Transport Marijuana.

It shall be unlawful for any person to distribute, or contract to distribute, as such terms are defined in Section 6-16-2 of this code, any marijuana using any freight or package service, community rideshare, or other commercial transportation network, not including the United States Postal Service. It shall be an affirmative defense if the person holds a valid marijuana transporter license from the state and the transporter is transporting the marijuana in compliance with all applicable state and local requirements.

Ordinance Nos. [8081 \(2015\)](#); [8393](#) (2020)

5-10-8. - Reserved.

Editor's note— Ordinance No. [8393](#), § 3, adopted July 7, 2020, repealed § 5-10-8, which pertained to unlawful to produce marijuana without a license and derived from Ordinance No. [8081 \(2015\)](#).

Chapter 11 - Cannabis Offenses

5-11-1. - Definitions.

For purposes of this chapter, the following words shall have the following definitions:

Cannabis means all parts of the plant from 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. It does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as Marijuana in this subsection. Cannabis shall include Hemp or Marijuana, and Industrial Hemp, medical marijuana, and recreational marijuana as defined in this chapter or elsewhere in this Code.

Cultivation or *cultivate* means: (i) all phases of growth of Hemp from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of Hemp prior to consumption, or incorporation into a cannabis-infused product.

Distribute or *distribution* means the actual, constructive, or attempted transfer, delivery, sale, or dispensing of Hemp to another, with or without remuneration.

Hemp or *Industrial Hemp* means the plant from the genus cannabis and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis. Any increase over of delta-9 tetrahydrocannabinol concentration over three-tenths of one percent on a dry-weight basis causes the cannabis to be regulated as marijuana even if was green or is intended to be sold as a hemp plant or product.

Licensee means the cannabis business named on the cannabis business license, and all individuals named in the cannabis business license application or later reported to the city as owner or keyholder as defined in section 6-16-2, including, without limitation, owners.

Marijuana means any Cannabis that is not Hemp.

Produce or *production* means: (i) combining Cannabis with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling, or relabeling of cannabis or its derivatives, whether alone or mixed with any amount of any other substance. Production shall not include packaging or repackaging, labeling, or relabeling of Cannabis if no Production has occurred and such packaging and labeling qualify as Cultivation.

Ordinance No. [8393](#) (2020)

5-11-2. - Evidence of Cannabis in Trials.

- (a) In any trial for a violation of this chapter, any witness with professional or occupational experience to identify cannabis by its appearance, taste, or smell may state an opinion that a substance was cannabis, based on his or her observations and experience. The witness need not be offered as an expert witness.
- (b) In any trial for a violation of this chapter, any witness may testify that a person manifested characteristics commonly associated with cannabis use if the witness has personal experience or training that would enable the witness to recognize the characteristics. The witness need not be offered as an expert witness.
- (c) In any trial for a violation of this section, testimony of a competent witness, including the arresting officer, that the substance possessed exhibited the smell, appearance, or other characteristics of cannabis shall be sufficient to establish that the substance in question was cannabis. The defendant

may rebut such testimony with a laboratory test, performed at the defendant's expense demonstrating that the substance was not cannabis.

- (d) For purposes of this chapter, no witness shall be required to identify cannabis as either hemp or marijuana.

Ordinance No. [8393](#) (2020)

5-11-3. - Cannabis Odor Emissions.

- (a) No person, tenant, occupant, or property owner shall permit the emission of cannabis 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 cannabis 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.
- (c) A cannabis odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if cannabis odor is detectable outside the premises.
- (d) No person shall be convicted of a violation of this section unless the city manager has delivered or posted a written warning, in the previous twelve months, that conduct violating this section is occurring or has occurred.
- (e) Extended grace period for licensed cannabis business. No person who receives a warning at a licensed cannabis business shall be convicted of a violation that allegedly occurred within thirty days after the first warning issued pursuant to Subsection (d), if all of the following conditions are met:
 - (1) A first warning within twelve months was previously issued pursuant to Subsection (d) of this section for the person's property, and the subject property is licensed as a cannabis cultivation facility by the city or the state;
 - (2) Seven or fewer days after the warning was posted or delivered, the person submitted a written document to the city manager which explained (i) why the cannabis odor emissions could not be abated within seven days feasibly, and (ii) how the person planned to abate the cannabis odor emission in the following ninety days;
 - (3) The person receiving the warning has diligently pursued to completion the plans for abating the cannabis odor emission; and
 - (4) The written document described in Paragraph (2) was submitted fewer than ninety days before the date of the violation.

Ordinance No. [8393](#) (2020)

5-11-4. - Unlawful to Cultivate, Distribute, or Produce Cannabis Without a License.

It shall be unlawful for any person to:

- (1) Cultivate any cannabis without a license from the city for a marijuana cultivation facility if the plant is marijuana or a hemp cultivation facility if the plant is hemp;
- (2) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based cannabis concentrate, in the same premise as cannabis without a license from the city as a hemp or marijuana infused product manufacturer; or
- (3) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-

based cannabis concentrate, in the same premise as cannabis without a license from the city as a cannabis infused product manufacturer.

For purposes of this section, the terms "produce" and "distribute" shall have the same definition as specified in Section 6-16-2 of this Code.

Ordinance No. [8393](#) (2020)

Part 4-

B.R.C. 6- 14, Medical Marijuana Businesses

Chapter 14 - Medical Marijuana

6-14-1. - Legislative Intent and Purpose.

- (a) Legislative Intent. The city council intends to regulate the use, acquisition, cultivation, production, and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment").
- (1) The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver. The regulations are intended to apply to all medical marijuana operations in the city whether by a patient or caregiver under the Medical Marijuana Amendment, or any medical marijuana business permitted under the state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and the Code is intended to permit medical marijuana cultivation where it will have a minimal impact.
 - (2) Use, distribution, cultivation, production, possession, and transportation of medical marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by federal law.
 - (3) The regulations for medical marijuana uses are not adequate at the state level to address the impacts on the city of medical marijuana, making it appropriate for local regulation of the impacts of medical marijuana uses.
 - (4) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
 - (5) This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have medical marijuana in the city.
 - (6) Medical marijuana is a heavily regulated industry in the city, all licensees are assumed to be fully aware of the law, the city shall not therefore be required to issue warnings before issuing citations for violations of this chapter.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the city by prescribing the manner in which medical marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:
- (1) Provide for a means of cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the Medical Marijuana Amendment.
 - (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
 - (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas.
 - (4) Impose fees to cover the cost to the city of licensing medical marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program.
 - (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter.
 - (6) Create regulations that address the particular needs of the patients and residents of the city and coordinate with laws that may be enacted by the state regarding the issue.
 - (7) Facilitate the implementation of the Medical Marijuana Amendment without going beyond the authority granted by it.

- (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow medical marijuana.
 - (9) Issue medical marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials.
 - (10) Protect public safety and residential areas by limiting the areas of the city where more than six medical marijuana plants may be grown.
 - (11) Exclude from the definition of a *medical marijuana business* the private possession, production, and medical use of marijuana by an individual patient or the private possession, production, distribution, and medical use of marijuana by an individual caregiver for one patient, in the residence of the patient or caregiver, to the extent permitted by Article XVIII, Section 14 of the Colorado Constitution.
- (c) Relationship to State Law. The provisions in this chapter that are different from the state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by § 12-43.3-305, C.R.S., and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply on all matters authorized in § 12-43.3-101, et seq., C.R.S., and all matters of local concern.
- (d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under § 12-43.3-106, C.R.S.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); [8081 \(2015\)](#)

6-14-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Addiction recovery facility shall have the same meaning as set forth in Section 9-16-1, B.R.C. 1981.

Adult event means any event at which no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one. To be considered an adult event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over twenty-one years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than thirty percent of the audience, and those viewing advertising for the event, under the age of twenty-one. No event on city property or dedicated trails for which access and visibility cannot be controlled may be considered an adult event.

Advertise means the act of drawing the public's attention, whether on print or on the internet, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

Appealing to minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under 21 years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under 21 years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

Cold-water extraction means the mix of cold water and ice and marijuana with agitation and filtration to separate the trichomes from the marijuana plant.

Company material means any information printed or transmitted electronically that includes the name and logo of a particular marijuana business(es), and promotes the business or describes marijuana or marijuana-infused product distributed by the business(es). Company material may include promotion of

the business to potential employees over the age of 21 or investors, or instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

Coupon means a printed voucher or token entitling the holder to a discount for a particular product or service. Coupon does not include showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.

Cultivation or *cultivate* means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of a usable form of marijuana.

Cultivation facility or *optional premises* means a licensed medical marijuana business that produces and harvests medical marijuana plants for a medical use for distribution by a licensed medical marijuana business. Except as included in this definition, a cultivation facility may not operate any production other than cold-water extraction on its premises.

Distribute or *distribution* means the actual, constructive, or attempted transfer, delivery, sale, or dispensing to another, with or without remuneration.

Educational material means materials prepared by a governmental or non-profit entity that are designed to provide information, facts, instructions, and warnings related to the legal use and consumption of marijuana and marijuana products. *Educational materials* do not include arguments for or against the legalization of marijuana or encourage the use of marijuana or advertisements, including the name and logo for any marijuana business.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 44-4-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. *Financier* shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits, or any person that has been qualified as a Permitted Economic Interest holder by the Marijuana Enforcement Division of the Colorado Department of Revenue.

Handbill, leaflet or *flyer* means a flat or folded sheet of printed matter that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. *Handbill, leaflet* or *flyer* does not include educational materials without the name or logo of a marijuana business, or information made available within the licensed premises of a marijuana business.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to sponsorship of charitable events means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs, or similar items. Incidental to sponsorship of charitable events does not include the placement of a booths or distribution of materials that does not list or is for the use of all sponsors of the event.

Job fair or *educational seminar* means an adult event held for the purpose of (a) connecting persons seeking jobs in a particular industry with employers in that industry or (b) educating others on matters related to the legal marijuana industry.

Keyholder means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. *Keyholder* shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or disarm the alarm.

Licensee means the medical marijuana business named on the medical marijuana business license, and all individuals named in the medical marijuana business license application or later reported to the city, including without limitation, owners, keyholders, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a medical marijuana business.

Mall means the downtown Boulder Business Improvement District boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by Ordinance No. 4022, adopted February 18, 1975.

Malt, vinous, and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 44-3-103, C.R.S.

Marijuana, for this Chapter 6-14, means:

- (1) The same as the term "usable form of marijuana" as set forth in the Medical Marijuana Amendment; or
- (2) May be more fully defined in any applicable state law or regulation.

Marijuana business means a recreational marijuana business or a medical marijuana business.

Marijuana establishment shall have the same meaning as marijuana establishment in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Marijuana warehouse means a marijuana establishment that is not a licensed medical marijuana business or a licensed recreational marijuana business. No marijuana warehouses are allowed in the city.

Medical marijuana means any marijuana intended for medical use which meets all requirements for medical marijuana contained in this chapter, the Medical Marijuana Amendment, and any other applicable law.

Medical marijuana business means (i) any person that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or two ounces of a usable form of marijuana for medical use, or (ii) any person that produces any amount of medical marijuana. The term medical marijuana business shall not include the private possession, or medical use of no more than six plants, or two ounce of a useable form of marijuana by a patient or caregiver in the residence of the patient or caregiver.

Medical marijuana center means a licensed medical marijuana business that distributes medical marijuana to patients or primary caregivers or to medical marijuana-infused product manufacturers or to another medical marijuana center.

Medical marijuana - infused product means a marijuana-infused product as defined in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Medical marijuana - infused product manufacturer means a licensed marijuana-infused product manufacturer as defined in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Medical marijuana local licensing authority means the city manager. The city manager shall be the local licensing authority for the purpose of any state law that requires the city to designate a local licensing authority.

Medical marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves. *Medical marijuana plant* shall include immature plants except where specifically excepted in this code. For purposes of this chapter, the portion of a medical marijuana plant harvested from the plant or converted to a usable form of medical marijuana for medical use is not considered part of the plant upon harvesting.

Medical use shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Minor means a person under twenty-one years of age.

Mixed-use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of premises means a change to a marijuana business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the marijuana business license. *Modification of premises* does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Patient shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Place open to the general public means any property owned, leased, or used by a public entity, and any place on private property open to the public, common area of buildings, private clubs, vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. *Place open to the general public* shall not include (a) any fenced area of a private residence regardless of whether it can be seen from a place open to the public, or (b) any enclosed portion of a building not visible from a place open to the public which qualifies as an adult event.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a medical marijuana business shall be considered in possession of the medical marijuana business at all times. The keyholder of a medical marijuana business shall be considered in possession of the medical marijuana business at all times that the keyholder is on the premises of the business or has been designated by the owner as the keyholder in the absence of the owner in accordance with this chapter.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area.

Primary caregiver shall have the same meaning as is set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging, or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling, or relabeling of a usable form of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Restricted area means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

Safe means a metal box, attached to the building structure, capable of being locked securely, constructed in a manner to prevent opening by human or mechanical force, or through the use of common tools, including but not limited to hammers, bolt cutters, crow bars or pry bars. The city manager may approve security devices such as vaults and strong rooms that are functionally equivalent to safes.

University Hill commercial area means the area described as the University Hill General Improvement District in Appendix 8-A of Title 8 of this code.

Violation of any law means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); 7970 (2014); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8276 \(2018\)](#)

6-14-3. - License Required.

- (a) License Required. It shall be unlawful for any person to operate a medical marijuana business without obtaining a license to operate pursuant to the requirements of this chapter.
- (b) Additional Licenses and Permits May Be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.
- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premises from which a medical marijuana business is operated. Except as specifically provided in this chapter, no two or more different medical marijuana businesses may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marijuana business and any adjacent business.
- (e) License Nontransferable; Exceptions. A medical marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business, or to a different owner or licensee. A medical marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed medical marijuana business shall be permitted in the following circumstance:
 - (1) The new owner and all licensees of the business have submitted completed applications and passed a background check by the city;
 - (2) The new owner is not making changes to any of the plans or conditions that are part of the license; and
 - (3) One of the following:
 - (A) The license transfer location is permitted without the exception of Subsection 6-14-7(c) of this chapter; or
 - (B) The license transfer is an arms-length third party transaction to one hundred percent new owners and managers.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); [8157 \(2016\)](#); [8345 \(2019\)](#)

6-14-4. - General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to medical marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1, the provisions of this chapter shall control for medical marijuana business licenses.

- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court, for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove medical marijuana of any medical marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Reserved.
- (f) Forfeiture of License. In the event that a medical marijuana business does not commence operations within thirty days of issuance of a license from the city, the license shall be deemed forfeited and the business may not commence operations.
- (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a medical marijuana business unless the tenant has a valid medical marijuana business license or has applied for and not been denied a medical marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a medical marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected medical marijuana business is located to determine whether any marijuana is on the premises.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); [8081 \(2015\)](#)

6-14-5. - Application.

- (a) Application Requirements. An application for a medical marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
 - (1) Name and address of the owner or owners of the medical marijuana business in whose name the license is proposed to be issued.
 - (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
 - (B) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
 - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity, and contact information for that person.
 - (2) Name and address of:
 - (A) Any keyholders of the medical marijuana business, if the keyholder is proposed to be someone other than the owner;
 - (B) All financiers of the medical marijuana business; and

- (C) All agents of the medical marijuana business who either (i) act with managerial authority, (ii) provide advice to the medical marijuana business for compensation, or (iii) receive periodic compensation totaling \$1,000 or more in a single year for services related to the medical marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of medical marijuana.
- (3) A statement of whether or not any of the named owners, members, keyholders, financiers, primary caregivers, or persons named on the application have been:
- (A) Denied an application for a medical marijuana business license pursuant to this chapter, for a recreational marijuana license pursuant to Chapter 6-16, "Recreational Marijuana," B.R.C. 1981, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Denied an application for a liquor license pursuant to title 12, article 47 or article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.
 - (C) In violation of any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.
 - (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.
- (4) Proof of ownership or legal possession of the restricted area for a medical marijuana business for the term of the proposed license. If the medical marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
- (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
- (6) An operating plan for the proposed medical marijuana business, including the following information:
- (A) A description of the products and services to be provided by the medical marijuana business.
 - (B) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the medical marijuana business is to be located;
 - (ii) The principal uses of the floor area depicted on the floor plan, including, but not limited to, the areas where nonpatients will be permitted, private consulting areas, storage areas, retail areas, and restricted areas where medical marijuana will be located;
 - (iii) Areas where any services other than the distribution of medical marijuana are proposed to occur in the premises; and
 - (iv) The separation of the areas that are open to persons who are not patients from those areas open to patients.
 - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.
 - (D) For cultivation facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater

system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

- (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule, or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four hours' notice to the applicant prior to such disclosure.
 - (8) A lighting plan showing the lighting outside of the medical marijuana business for security purposes and compliance with applicable city requirements.
 - (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the medical marijuana business is located, the proximity of the property to any school or state licensed child care center, to any other medical marijuana business, or to any residential zone district.
 - (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, keyholders, financiers, and caregivers employed by or under contract to provide services to the medical marijuana business, including all individuals who have an interest as described herein of any portion of the medical marijuana business, directly or as an agent, or a member, partner, or officer of a corporation, partnership, association, or company.
 - (11) A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
 - (12) A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana businesses that grow medical marijuana plants, 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 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.
 - (13) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials will be stored.
 - (14) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.
 - (15) Modifications to Approved Medical Marijuana Business License. Prior to making a modification of a marijuana business that would require a building permit or change items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit to the city and have approved, when necessary, a completed application for modification of premises in the form provided by the city.
- (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, keyholder, financier, primary caregiver, or other person named on the application contains information regarding violations of any law or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, and other regulatory licenses held without compliance

violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.

- (c) **Fee Required.** Any application for a medical marijuana business permit shall be accompanied by the application fee, criminal background check fee, the annual license fee as required by Section 4-20-64, "Medical Marijuana Businesses," B.R.C. 1981, and any other applicable fees.
- (d) **Inspection.** An inspection of the proposed medical marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.
- (e) **Investigation.** For purposes of § 12-43.3-303(2), C.R.S., the investigation of the application by the city is not complete until the city manager has (i) determined the application is complete, (ii) determined the medical marijuana business is prepared and able to operate in compliance with all applicable laws, (iii) conducted an inspection of the business, (iv) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions, and (v) prepared the documentation necessary to support the decision made by the manager on the application.
- (f) **Approval Requirements.** The city manager may issue a medical marijuana business license if the inspection, background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, and is prepared to operate the business with other owners and managers as set forth in the application, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation, or that contains any false or incomplete information. The conditions of an approval of a medical marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-14-6. - Persons Prohibited as Licensees and Keyholders.

- (a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no license provided by this chapter shall be issued to or held by, and no medical marijuana business shall be managed by:
 - (1) Any person until the annual fee for the license has been paid;
 - (2) Any person not of good moral character;
 - (3) Any corporation, any of whose officers, directors, or stockholders are not of good moral character;
 - (4) Any partnership, association, or company, any of whose officers or members holding an interest therein, or a managing member, are not of good moral character;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;
 - (6) Any person, unless such person's character, record, and reputation are satisfactory to the city manager;
 - (7) Any natural person who is under twenty-one years of age;
 - (8) Any person who operates or manages a medical marijuana business contrary to the provisions of this chapter, any other applicable law, rule, or regulation or conditions imposed on land use

or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;

- (9) A licensed physician making patient recommendations;
 - (10) A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
 - (11) A sheriff, deputy, 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 as defined in § 25-1.5-106(2), C.R.S., has been revoked by the state health agency;
 - (13) A person who is a licensee for a location that is currently licensed as a retail food establishment or a wholesale food registrant; or
 - (14) Any person applying for a license to operate a medical marijuana center who has been licensed to operate three other marijuana centers in the city pursuant to either this chapter or Chapter 6-16. For purposes of this subparagraph only, one co-located medical and recreational marijuana center is considered one marijuana center.
- (b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:
- (1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;
 - (2) Verification of or lack of ability to verify items disclosed by the individual;
 - (3) When an individual has a history of violation of any law or a history including denial, revocation, or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse, or other violations of any laws that may directly affect the individual's ability to operate a medical marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;
 - (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a medical marijuana business;
 - (5) Rules adopted by the manager to implement this chapter;
 - (6) Law, rules, and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and
 - (7) Any additional information the manager may request of the individual if the individual has a violation of any laws, an administrative or judicial finding of violation of laws regarding use of alcohol or controlled substances or items disclosed by the individual which require additional information in order for the manager to make a determination regarding issuance of the license.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); [8157](#) (2016)

6-14-7. - Locations of Medical Marijuana Businesses.

- (a) Fixed Location Required. It shall be unlawful to operate a medical marijuana business or to grow medical marijuana outside of an enclosed building. All medical marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows medical marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.

- (b) Location - Permitted Use in Zoning District. A medical marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located as follows:
- (1) As "personal services" for a medical marijuana center;
 - (2) As "greenhouse/nursery" for a cultivation facility; or
 - (3) As "manufacturing \leq 15,000 square feet" for a cultivation facility, for a medical marijuana-infused product manufacturer, or for a marijuana testing facility.
- (c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013.
- (d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any person to permit retail sales within a medical marijuana business that is a cultivation facility or medical marijuana-infused product manufacturer.
- (e) Distribution by Primary Caregiver. It shall be unlawful for any person to distribute medical marijuana to a patient except (1) directly to a patient upon the restricted area, or (2) via personal delivery of the medical marijuana by the primary caregiver to the patient at the patient's residence as provided in this chapter.
- (f) Separation from Schools, Day Care Centers, Addiction Recovery Facilities, or Other Medical Marijuana Uses:
- (1) No medical marijuana wellness center license shall be issued for a location within one thousand feet of any elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a state-licensed day care center, or an addiction recovery facility. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013.
 - (2) Reserved.
 - (3) No medical marijuana business license shall be issued for a location within five hundred feet of three other marijuana businesses. This limitation shall not apply to a medical marijuana cultivation facility in industrial zones that had submitted an application or been licensed by the city on October 22, 2013.
 - (A) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other medical marijuana business.
 - (B) To determine the proximity to other medical marijuana businesses and the priority of applications, businesses shall have priority in the following order:
 - (i) Businesses that are open and operating;
 - (ii) Businesses whose applications have been approved;
 - (iii) Applications for medical marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
 - (iv) No other applications shall be considered "businesses" for this determination.
 - (4) For purposes of this paragraph, *school*, *college*, or *university* shall include properties owned by such entities only if they are used to provide services, teaching facilities, or living facilities to students. No distance is required between a marijuana business and properties owned by a *school*, *college*, or *university* that are not used to provide teaching facilities, living facilities, or services to students.

- (g) Limitations on Dual Licenses. A medical marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981, or a medical marijuana business license under this chapter.
- (h) Limitations on Medical Marijuana Centers. The following shall be the minimum requirements for a medical marijuana center:
 - (1) The area of the business is three thousand square feet or less;
 - (2) The business does not distribute medical marijuana only, but provides other caregiver services consistent with a wellness center, including, but not limited to, health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, or homeopathy, or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use;
 - (3) The business includes a secured and locked medical marijuana dispensary room, one or more private rooms for consultation on the medical use of marijuana or other services, and a separate reception area for screening of patients and waiting for nonpatients.
 - (4) All caregiver services provided to meet the requirements of this section must comply with all applicable requirements of any federal, state, or local entity with jurisdiction applicable to the service provided.
- (i) Limitations at Street Level. No marijuana business license shall be issued for a medical marijuana center at a location on the street level of the mall or the University Hill commercial area.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 7970 (2014); [8157](#) (2016)

6-14-8. - Requirements Related to Operation of Medical Marijuana Businesses.

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the medical marijuana business.
- (b) Restriction on Access to Restricted Area.
 - (1) No person, other than a patient, licensee, employee, or a contractor, shall be in the restricted area. No patient shall be allowed entry into the restricted area without showing a valid picture ID and evidence that the person is a patient.
 - (2) No person, other than an employee or contractor of the business or a visitor shall be permitted in the restricted area of the business. For purposes of this subsection, a visitor means a person that is accessing the restricted area for educational business purposes. No access to the restricted area may be permitted by tourists or for compensation. The business must require that all visitors comply with all requirements for access to limited access areas as required by the Colorado Marijuana Enforcement Division. The log required shall be maintained on the business premises and available for inspection upon request by the city.
- (c) Display of Licenses Required. The name and contact information for the owner or owners and any keyholder of the medical marijuana business, the medical marijuana business license, and the sales tax business license shall be conspicuously posted in the business.
- (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a medical marijuana business and shall not be visible from the exterior of the business.
- (e) Owner or Keyholder Required on Premises. No medical marijuana business shall be managed by any person other than the licensee or the keyholder listed on the application for the license or a renewal thereof. Such licensee or keyholder shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the

possession of another person. In the event the licensee intends to employ a keyholder that was not identified on the license or renewal application, the licensee shall report the name of such keyholder to the city, and such keyholder shall submit to the city, at least thirty days prior to commencing serving as the keyholder, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in keyholders at least thirty days prior to employing an additional keyholder, and no more than five days after a keyholder is released from such position. In the event the licensee submits a completed application for the new keyholder with a copy of a valid Occupational Key Badge issued by the state Marijuana Enforcement Division, the applicant may work as a keyholder for the licensee upon submission of the application until final city determination is made on such application.

- (f) **Hours of Operation.** A medical marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 10 p.m. and 8 a.m. Provided however, in the event that a planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may be returned to the center.
- (g) **Use of Pesticides.** No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a medical marijuana business. A medical marijuana business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.
- (h) **Ventilation Required.** A medical 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 medical marijuana business or at any adjoining use or property.
- (i) **Renewable Energy Requirements.** A medical marijuana cultivation facility shall directly offset one hundred percent of its electricity consumption through a verified subscription in a Community Solar Garden, or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For medical marijuana businesses licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the medical marijuana business license following October 22, 2013.
- (j) **Limitations on Inventory.** The medical marijuana business shall not maintain any more marijuana within the premises than is permitted under applicable law for the patients which have designated the business as primary caregiver. The medical marijuana business shall not maintain any more marijuana than the amount stated on the business' license application to the state. No plants shall be located in a medical marijuana center or a medical marijuana-infused product manufacturer. The medical marijuana business shall maintain current records evidencing the status as patients of those who have designated the business as the patient's primary caregiver.
- (k) **Reporting Requirements.** A medical marijuana business shall report to the medical marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.
 - (1) Transfer or change of financial interest, keyholder, financier, and primary caregiver in the license to the city at least thirty days before the transfer or change.
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly.
 - (3) A violation of any law by any licensee or applicant of a medical marijuana business.
 - (4) A notice of potential violation of any law to any licensee.
 - (5) Upon city request, any report that the medical business is required to provide to the state.
 - (6) Reports of all criminal activities or attempts of violation of any law at the medical marijuana business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (l) **Delivery to Patients.** In the event a primary caregiver personally delivers medical marijuana to one or more patients, at all times any medical marijuana is outside of the restricted area:

- (1) The medical marijuana shall be packaged, sealed, and labeled as provided in this chapter. The label shall include the name of the patient to whom it is being delivered.
 - (2) The primary caregiver delivering the medical marijuana shall have in the primary caregiver's possession documents evidencing: (i) the patient identified on each package of medical marijuana has designated the person as the patient's primary caregiver; (ii) the patient requested delivery of medical marijuana by the primary caregiver; (iii) the amount of the requested delivery; (iv) the date of the requested delivery; and (v) if more than two ounces is being delivered to a patient, a copy of the doctor's recommendation for that patient specifying the additional amount of medical marijuana medicinally necessary for that patient on the form provided by the city.
 - (3) The delivery is made directly to a patient who has a valid registration card and a valid picture identification card that matches the name on the registration card.
 - (4) In no event shall the primary caregiver be in possession of more than eight ounces of a usable form of medical marijuana for delivery outside of the restricted area.
- (m) Delivery Between Medical Marijuana Businesses. It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by applicable law, unless the medical marijuana being transported meets the following requirements:
- (1) All medical marijuana-infused products are hand-packaged, sealed, and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section.
 - (2) All medical marijuana in a usable form for medicinal use is packaged and stored in closed containers that are labeled as provided in this section.
 - (3) Each container used to transport medical marijuana is labeled with the amount of medical marijuana or medical marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the medical marijuana business that the medical marijuana is being transported from and the name and address of the medical marijuana business that the medical marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label.
 - (4) Unless otherwise specifically allowed by applicable law, medical marijuana may be transported only between medical marijuana businesses.
 - (5) The medical marijuana must be accompanied by the manifest in accordance with state requirements for transport of marijuana.
 - (6) The medical marijuana must be accompanied by the email receipt confirmation from the Boulder Police Department in accordance with the rules therefor established by the police department;
 - (7) When determining and reporting the route to take, licensees should select the most direct route that provides efficiency and safety.
- (n) Disposal of Medical Marijuana and Marijuana Byproducts. All medical marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the medical marijuana plants within a medical marijuana business or possessed by a patient may be mature, flowering plants producing a usable form of marijuana.
- (p) Advertisement. A medical marijuana business may not advertise in any manner except as provided in subparagraph (p)(2).
- (1) Prohibitions. The exceptions in paragraph (2) below shall not apply to advertising that is:

- (A) Inconsistent with the medicinal use of medical marijuana, or misleading, deceptive, false, or designed to appeal to minors;
 - (B) In plain view of or in a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property;
 - (C) On a product marked with the name or logo of a marijuana business, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors;
 - (D) Distributed without charge within a marijuana business or any place open to the public;
 - (E) Contrary to any provisions of C.R.S. §§ 12-43.3 et seq. or 12-43.4, et seq. or any regulations adopted thereto; or
 - (F) Promotes medical marijuana for recreational or any use other than for medicinal purposes.
- (2) Exceptions: The prohibition set forth in this subsection (p) shall not apply to:
- (A) Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address and days and hours of operation of the center;
 - (B) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet, which may include coupons;
 - (C) Any non-consumable merchandise or accessories;
 - (D) Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana business;
 - (E) A booth at an adult event where the only items distributed are company or educational materials, and no other items are distributed, shown or sold;
 - (F) Business cards within the business or handed directly to an individual over the age of 21;
 - (G) Showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service; or
 - (H) Company materials and educational materials distributed inside the marijuana business.
- (q) The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their medical marijuana business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.
- (r) Separation of Cultivation Facility and Medical Marijuana-Infused Product Manufacturer. A cultivation facility and manufacturer are separate medical marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
- (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
 - (2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marijuana business and any adjacent business.

- (3) Obtain delivery documents and manifests for movement of any marijuana between the cultivation facility and the manufacturer.
- (s) Additional Requirements for Production of Medical Marijuana.
 - (1) No medical marijuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
 - (2) The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing medical 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.
- (t) Packaging at Medical Marijuana Center. Provided that medical marijuana has been delivered to a medical marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a medical marijuana center may package and label any marijuana that results from the sale of medical marijuana in amounts less than as packaged for delivery to the center.
- (u) Organization of Cultivation Facilities. All cultivation facilities shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or an aisle and a wall, and with clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and to exits.
- (v) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has reasonable cause to believe that person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana or marijuana product, the licensee or employee shall be authorized to confiscate such fraudulent proof of age. Within seventy-two hours, any fraudulent proof of age confiscated shall be turned over to the Boulder Police Department.
- (w) Sale of Immature Plants. A medical marijuana center may not sell immature plants, unless (a) no more than six immature plants are sold to any one customer, and (b) the immature plants are not transferred from the medical marijuana cultivation facility to the center until the day the patient is to pick up the immature plants and no immature plants are maintained at the center overnight. The business may require a deposit with any pre-orders.

Ordinance Nos. [7716 \(2010\)](#); [7780 \(2011\)](#); [7814 \(2011\)](#); [7877 \(2012\)](#); [7929 \(2013\)](#); [7970 \(2014\)](#); [8020 \(2014\)](#); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8307 \(2019\)](#)

6-14-9. - Right of Entry - Records to Be Maintained.

- (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track medical marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana business. The licensee shall also maintain inventory records evidencing that no more medical marijuana was within the medical marijuana business than allowed by applicable law for the number of patients who designated the medical marijuana business owners as their primary caregiver and the maximum amount represented to the state for its license from the state. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall

clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, dates, and patient or caregiver for all medical marijuana sold.

- (b) Reserved.
- (c) Disclosure of Records. By applying for a medical marijuana business license, the licensee is providing consent to disclose the information required by this chapter, including information about patients and caregivers. Any records provided by the licensee that includes patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the documents under the Colorado Open Records Act, § 24-72-201, et seq., C.R.S., or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection, it will provide at least twenty-four-hour notice to the applicant prior to such disclosure.
- (d) Audits. The city may require an audit to be made of the books of account and records of a medical marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the medical marijuana business. The expense of any audit determined necessary by the city shall be paid by the medical marijuana business.
- (e) Consent to Inspection. Application for a medical marijuana business license or operation of a medical marijuana business, or leasing property to a medical marijuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the city manager to conduct routine inspections of the medical marijuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner or keyholder on duty shall retrieve and provide the records of the business pertaining to the inspection. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of medical marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the medical marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a medical marijuana business license constitutes consent to inspection of the business as a public premises without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a medical marijuana license without a search warrant.
- (f) Reporting of Source, Quantity, and Sales. The records to be maintained by each medical marijuana business shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and transactions to patients or caregivers, the following:
 - (1) Name and address of seller or purchaser;
 - (2) Date, weight, type of marijuana, and dollar amount or other consideration of transaction; and
 - (3) For wholesale transactions, the state and city, if any, sales and use tax license number of the seller.
- (g) Reporting of Energy Use and Compliance with Renewable Energy Requirements. The records to be maintained by each medical marijuana cultivation facility and submitted to the city shall include, without limitation, records showing on a monthly basis the use and source of energy and any renewable energy generated onsite or through a Community Solar Garden subscription. Such records shall include all statements, reports, or receipts to verify the items included in the report of the business. By application for a medical marijuana business license from the city for a cultivation facility, the medical marijuana cultivation facility grants permission to providers of the energy or other renewable energy acquisition program to disclose the records of the business to the city. Medical

marijuana businesses shall maintain records showing compliance with the renewable energy requirements in this chapter.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8307 \(2019\)](#)

6-14-10. - Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. A separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) **Cameras.** The medical marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms and consulting rooms while a patient is undressed), and where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana business. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within seventy-two hours of any change of such location.
- (b) **Use of Safe for Storage.** The medical marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.
- (c) **Alarm System.** The medical marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-14-11. - Requirements for Public Health and Labeling.

- (a) **Medical Marijuana-Infused Products.** The production of any medical marijuana-infused product shall be at a medical marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing medical marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the medical marijuana-infused products were food items.
- (b) **Labeling and Packaging Requirements.** All medical marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any resale or redistribution of the medical marijuana to a third person is prohibited. In addition, the label shall comply with all applicable requirements of the State of Colorado and any other applicable law.

- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); [8157](#) (2016)

6-14-12. - Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for medical use shall also apply to medical marijuana businesses in the city. Provided however, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits 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 is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No medical marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses, or if a medical marijuana business is denied a medical marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (c) Revocable Privilege. A medical marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

6-14-13. - Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Cultivate, distribute, possess, or produce marijuana in plain view of or in a place open to the general public.
 - (2) Smoke, use, or ingest on the premises of the medical marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous, and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges.
 - (3) Operate or be in physical control of any medical marijuana business, liquor establishment, vehicle, aircraft, or motorboat while under the influence of alcohol, medical marijuana, or other intoxicant.
 - (4) Possess or use medical marijuana:
 - (A) on the grounds of a school or university or in a school bus; or
 - (B) in a vehicle, aircraft, or motorboat.
 - (5) Possess medical marijuana that is not in a sealed package in a location where the possessor is not authorized to possess or consume medical marijuana.

- (6) Possess more than six marijuana plants without a medical marijuana business license for a cultivation facility. It shall be an affirmative defense to this charge if (a) a legitimate recommendation from a qualified physician of the patient for whom the marijuana is being grown includes a recommendation for a specific amount of marijuana in excess of six marijuana plants as being medically necessary to address the patient's debilitating medical condition, and (b) the plants are located within a licensed medical marijuana business.
- (7) Possess more than two ounces of a usable form of marijuana without a medical marijuana business license for a center or a medical marijuana-infused product manufacturer. It shall be an affirmative defense to this charge if a legitimate recommendation from a qualified physician of the patient possessing the medical marijuana includes a recommendation for a specific amount of marijuana in excess of two ounces as being medically necessary to address the patient's debilitating medical condition.
- (8) Obtain marijuana from a person who is not licensed as a medical marijuana business.
- (9) Possess or operate a medical marijuana business in violation of this chapter.
- (10) Produce, distribute, or possess more medical marijuana than allowed in this chapter than disclosed in the application to the state for a medical marijuana business license or other applicable law.
- (11) Distribute medical marijuana without a medical marijuana business license or outside of the restricted area of the medical marijuana business.
- (12) Possess medical marijuana, own or manage a medical marijuana business, or own or manage a building with a medical marijuana business, where there is possession of medical marijuana by a person who is not a patient, a primary caregiver, or a licensee of a medical marijuana business.
- (13) Possess or operate a medical marijuana business in a location or in a manner for which a medical marijuana business license is prohibited by the terms of this chapter.
- (14) Operate a medical marijuana business without a medical marijuana business license from the city.
- (15) Operate a medical marijuana business in a manner that is not consistent with the items disclosed in the application for the medical marijuana business, or is in violation of any plan made part of the license application.
- (16) Operate a medical marijuana business without disclosing, in the application for a medical marijuana business license or an amendment thereto, an agent who either (i) acts with managerial authority, (ii) provides advice to the medical marijuana business for compensation, or (iii) receives periodic compensation totaling \$1,000 or more in a single year for services related to the medical marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person.
- (17) Distribute, or own or manage a medical marijuana business where distribution occurs, from a medical marijuana business, a medical marijuana-infused product that was produced in a manner that is not in compliance with this chapter.
- (18) Cultivate, manufacture, distribute, or possess any medical marijuana at a location without a medical marijuana business license prior to passing the inspection required by this chapter; provided however, this subparagraph shall not apply to medical marijuana businesses qualifying for the exception of Subsection 5-14-3(a), "License Required," B.R.C. 1981.
- (19) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city.
- (20) Attempt to use or display a medical marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license.

- (21) Cultivate, produce, distribute, or possess medical marijuana, or own or manage a medical marijuana business in which another cultivates, produces, distributes, or possesses medical marijuana, in violation of this chapter or any other applicable law.
- (22) Allow an owner or keyholder that has not been disclosed to the city as required by this chapter to operate the business.
- (23) Own, manage, or possess a medical marijuana business where medical marijuana is outside of the restricted area portion of such business. It shall be an affirmative defense to a violation of this section if the medical marijuana outside of the restricted area was: (i) in the custody and control of a patient; (ii) purchased by that patient from the business and the patient has not left the business since purchase; and (iii) the amount of medical marijuana in the custody and control of the patient does not exceed the amount the patient may possess lawfully.
- (24) Possess a number of flowering plants that is more than one-half of the medical marijuana plants that are lawfully possessed by a person.
- (25) Dispose of medical marijuana or any by-product of medical marijuana containing marijuana in a manner contrary to this chapter.
- (26) Distribute a medical marijuana plant to any person, except as permitted in this chapter for immature plants.
- (27) Deliver or transport medical marijuana to a patient or between medical marijuana businesses except in strict compliance with this chapter.
- (28) Refuse to allow inspection of a medical marijuana business upon request of a city employee. Any licensee, owner, keyholder, or operator of a medical marijuana business, or the owner of the property where a medical marijuana business is located, may be charged with this violation.
- (29) Advertise or publish materials, honor coupons, sell or give away products, or display signs that are in violation of this code;
- (30) Violate any provision of this code or any condition of an approval granted pursuant to this code or any law, rule, or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.
- (31) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.
- (32) Lease any property to a medical marijuana business that has marijuana on the property without a medical marijuana business license from the city.
- (33) Label or distribute a marijuana-infused product that is not labeled as required by this code or other applicable law.
- (34) Distribute or deliver marijuana from a medical marijuana cultivation facility to any location other than a medical marijuana wellness center.
- (35) Fail to respond by phone or email as required by Subsection 6-14-8(q) of this chapter.
- (36) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other periodical of general circulation within the city or on the internet.
- (37) Fail to provide a copy or record of a coupon authorized under this chapter upon request of an authorized city employee.
- (38) Fail to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person or disruption to the business.
- (39) Fail to post the premises during a suspension.

- (40) Distribute any consumable product, not including bottled water that is not a marijuana-infused product.
- (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, mental confusion, slowed responses, rigid muscles, body tremors, or dry mouth, or any other indicators of impairment.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 7970 (2014); [8157](#) (2016)

6-14-14. - Suspension or Revocation of License; Imposition of Fines.

- (a) A medical marijuana business license may be suspended or revoked for any of the following violations:
 - (1) Conviction of the business, a licensee, or any owner, keyholder, financier, or primary caregiver of any violation of this chapter or any other law, rule, or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.
 - (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the medical marijuana business.
 - (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application.
 - (4) Distribution of medical marijuana, including, without limitation, delivery to a patient or transporting marijuana, in violation of this chapter or any other applicable law, rule, or regulation.
 - (5) Operation of a medical marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.
 - (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter.
 - (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, keyholders, financier, or agent.
 - (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law.
 - (9) Revocation or suspension of another medical marijuana business license or any other license issued by the city, the state, or any other jurisdiction held by any licensee of the medical marijuana business.
 - (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.
- (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.
- (c) Fines for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter

1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.

- (d) If the city revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Boulder Police Department.
- (e) In the event of the suspension of a marijuana business license, during the period of suspension, the business:
 - (1) Shall post two notices provided by the Marijuana Licensing Authority, in conspicuous places, one on the exterior and one on the interior of its premises for the duration of the suspension; and
 - (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers into the licensed premises.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7970 (2014); [8081 \(2015\)](#); [8157 \(2016\)](#)

6-14-15. - Term of License - Renewals - Expiration of License.

- (a) Term of License. A medical marijuana business license shall be valid for one year. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license. For the first license issued for a medical marijuana business, the city manager may designate an expiration date in excess of one year, but no more than twenty-four months, to facilitate the administration by the city of renewals of such licenses.
- (b) Renewal of License. The licensee shall apply for renewal of the medical marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant submits a late filing fee of \$5,000 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
 - (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any keyholder, financier, agent as defined herein, or employee has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include: (i) verification that the business has a valid state license and the state license is in good standing; and (ii) a list from the licensee of the city approved keyholders who are employed at the licensed location to be renewed.
 - (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased, the amount of marijuana sold, the forms in which marijuana was sold, the number of patients and the number of primary caregivers who received marijuana, the police report numbers or case numbers of all police calls to the medical

marijuana business and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.

- (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
 - (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-14-4(e).
- (c) **Nonpayment of Tax.** In the event a medical marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the medical marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
 - (d) **Expiration of License.** Expiration of a medical marijuana business license for any reason, including, without limitation, pursuant to Subsection (c) above, shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-14-16. - City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

Part 5-

B.R.C. 6-16, Recreational Marijuana Businesses

Chapter 16 - Recreational Marijuana

6-16-1. - Legislative Intent, Findings, and Purpose.

- (a) Legislative Intent and Findings. The city council intends to regulate the use, possession, cultivation, production, and distribution of marijuana in a manner that is consistent with Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment" also known as Amendment 64) and finds that the provisions of this chapter are directly and demonstrably related to the operation of marijuana establishments in a manner to minimize negative impacts on the community.
- (1) The city adopts this law to apply to all recreational marijuana operations in the city under the Recreational Marijuana Amendment, or any recreational marijuana business permitted under the state law.
 - (2) Marijuana use, distribution, cultivation, and production can have an impact on health, safety, and community resources, and the code is intended to permit marijuana cultivation, distribution, production, and testing where it will have a minimal impact, and potential negative impacts are minimized.
 - (3) Use, distribution, cultivation, production, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.
 - (4) The General Assembly has adopted enabling legislation that provides for local licensing, however, the state law is not intended to, and does not, address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana operations.
 - (5) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
 - (6) This chapter is to be construed to protect the public over marijuana business interests. Operation of a recreational marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have marijuana in the city.
 - (7) Marijuana businesses are a heavily regulated industry in the city, all licensees are assumed to be fully aware of the law, the city shall not therefore be required to issue warnings before issuing citations for violations of this chapter.
 - (8) This chapter is not intended to replace the medical marijuana law in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, and any person may apply for and operate a medical marijuana business pursuant to Chapter 6-14, "Medical Marijuana," B.R.C. 1981, without complying with this chapter.
 - (9) This chapter is intended to specify the time, place, and manner restrictions for operating a recreational marijuana business in the city as specified in the Recreational Marijuana Amendment.
 - (10) The operation of a marijuana business without a license from the city as provided in this chapter is prohibited within the city.
 - (11) The experience of the city in processing and enforcing medical marijuana business licensing evidences that the provisions herein are capable and worthy of being carried out in practice by a reasonably prudent businessperson.
 - (12) The Colorado Administrative Procedures Act, Article 4 of Title 24 of the Colorado Revised Statutes (the "APA"), does not apply to local governments and the state has not been able to resource the process thereof in a timely manner. The procedures herein for issuance and enforcement of a recreational marijuana business license are consistent with the requirements of the APA and have been determined by the Boulder District Court to provide the level of due process required by the United States and Colorado Constitutions.

- (13) A licensee is not acting in his or her capacity as an owner, employee, or agent of a licensed marijuana establishment if the licensee is operating in violation of this chapter or any other applicable law.
 - (14) The city council has determined to allow marijuana establishments in the city on the condition that the establishments are operated in compliance with this chapter rather than banning marijuana establishments in the city as permitted by the Recreational Marijuana Amendment.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents, businesses, and property in the city by prescribing the manner in which recreational marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:
- (1) Provide for a means of cultivation, production, and distribution of marijuana to persons permitted to obtain, possess, and use marijuana for recreational purposes under the Recreational Marijuana Amendment;
 - (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air, and water quality, food safety, neighborhood and public safety, security for the business and its personnel, and other health and safety concerns;
 - (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas;
 - (4) Impose fees for licensing recreational marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program;
 - (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter;
 - (6) Create regulations that address the particular needs of the residents and businesses of the city and coordinate with laws that may be enacted by the State of Colorado regarding recreational marijuana;
 - (7) Facilitate the implementation of the Recreational Marijuana Amendment without going beyond the authority granted by it;
 - (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow recreational marijuana;
 - (9) Issue recreational marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials;
 - (10) Protect public safety and residential areas by limiting the areas of the city where more than six marijuana plants may be grown;
 - (11) Exclude from the definition of a *recreational marijuana business* the private possession, production, and recreational use of marijuana by an individual or the private possession, production, distribution, and recreational use of marijuana by an individual, in the person's residence, to the extent permitted by Article XVIII, Section 16 of the Colorado Constitution; and
 - (12) Designate the city manager as the recreational marijuana licensing authority responsible for licensing recreational marijuana for the city.
- (c) Relationship to State Law. The provisions in this chapter that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the Charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply.
- (d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under the Recreational Marijuana Amendment.

Ordinance No. 7930 (2013); [8081 \(2015\)](#)

6-16-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Addiction recovery facility shall have the same meaning as set forth in Section 9-16-1, "General Definitions," B.R.C. 1981.

Adult event means any event at which no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one. To be considered an adult event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over 21 years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than thirty percent of the audience, and those viewing advertising for the event, under the age of twenty-one. No event on city property or dedicated trails for which access and visibility cannot be controlled may be considered an adult event.

Advertise means the act of drawing the public's attention, whether on print, signs, or electronic means, to a recreational marijuana business in order to promote the sale of marijuana by the business.

Appealing to minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under twenty-one years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under twenty-one years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

Cold-Water Extraction means the mix of cold water and ice and marijuana with agitation and filtration to separate the trichomes from the marijuana plant.

Co-located marijuana business means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, that is permitted by the owner of the building and all applicable laws, to divide the licensed marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

Company material means any information printed or transmitted electronically that includes the name and logo of a particular marijuana business(es), and promotes the business or describes marijuana or marijuana-infused product distributed by the business(es). *Company material* may include promotion of the business to potential employees over the age of twenty-one, or investors, or instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

Coupon means a printed voucher or token entitling the holder to a discount for a particular product or service. *Coupon* does not include showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.

Cultivation or *cultivate* means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Cultivation facility means a licensed recreational marijuana business that produces and harvests marijuana plants for distribution by a licensed marijuana business. Except as included in this definition, a cultivation facility may not operate any production other than cold-water extraction on its premises.

Distribute or *distribution* means the actual, constructive, or attempted transfer, delivery, sale, or dispensing of marijuana to another, with or without remuneration.

Educational material means materials prepared by a governmental or non-profit entity that are designed to provide information, facts, instructions, and warnings related to the legal use and consumption of marijuana and marijuana products. *Educational materials* do not include arguments for or against the legalization of marijuana or encourage the use of marijuana or advertisements, including the name and logo for any marijuana business.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 44-4-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. *Financier* shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits, or any person that has been qualified as a Permitted Economic Interest holder by the Marijuana Enforcement Division of the Colorado Department of Revenue.

Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. *Handbill, leaflet or flyer* does not include educational materials without the name or logo of a marijuana business, or information made available within the licensed premises of a marijuana business.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to sponsorship of charitable events means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs or similar items. *Incidental to sponsorship of a charitable event* does not include the placement of a booth or distribution of materials at the event by the marijuana business.

Job fair or educational seminar means an adult event held for the purpose of (a) connecting persons seeking jobs in a particular industry with employers in that industry or (b) educating others on matters related to the legal marijuana industry.

Keyholder means the individual designated by the owner of the recreational marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. *Keyholder* shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

Licensee means the recreational marijuana business named on the recreational marijuana business license, and all individuals named in the recreational marijuana business license application or later reported to the city, including, without limitation, owners, keyholders, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a recreational marijuana business.

Mall means the downtown Boulder Business Improvement District boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by Ordinance No. 4022 adopted February 18, 1975.

Malt, vinous, and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 44-3-103, C.R.S.

Marijuana for this Chapter 6-16 means:

- (1) The same as set forth in the Recreational Marijuana Amendment; or
- (2) As may be more fully defined in any applicable state law or regulation.

Marijuana accessories shall have the same meaning as in the Recreational Marijuana Amendment.

Marijuana business means any medical marijuana business as defined in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or recreational marijuana business as defined in this chapter.

Marijuana establishment means a recreational marijuana business that has a license from the State of Colorado and the city to operate.

Marijuana-infused product manufacturer means a licensed marijuana business that produces marijuana-infused products.

Marijuana testing facility means a recreational marijuana business that has been licensed as a marijuana testing facility by the state that is in good standing, and has a license in good standing with the city.

Marijuana warehouse means a marijuana establishment that is not licensed by the city as a medical marijuana business or a licensed recreational marijuana business. No marijuana warehouses are allowed in the city.

Minor means a person under twenty-one years of age.

Mixed use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of premises means a change to a marijuana business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the marijuana business license. *Modification of premises* does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Place open to the general public means any property owned, leased, or used by a public entity, and any place on private property open to the public, common areas of buildings, private club, vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. *Place open to the general public* shall not include (a) any fenced area of a private residence regardless of whether it can be seen from a place open to the public, or (b) any enclosed portion of a building not visible from a place open to the public which qualifies as an adult event.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times. The keyholder of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times that the keyholder is on the premises of the business or has been designated by the owner as the keyholder in the absence of the owner in accordance with this chapter.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area.

Private club means any location, other than a residence of a person at the residence, or a marijuana establishment.

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling, or relabeling of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Recreational marijuana means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, the Recreational Marijuana Amendment, and any other applicable law.

Recreational Marijuana Amendment means Article XVIII, Section 16 of the Colorado Constitution.

Recreational marijuana business means (a) any person that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or one ounce of marijuana, or (b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term recreational marijuana business shall not include the private cultivation, possession, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, or (b) one ounce of marijuana, or (c) the marijuana derived from no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.

Recreational marijuana center means a licensed recreational marijuana business that distributes marijuana to any person or other licensed recreational marijuana business.

Recreational marijuana-infused product means a product infused with marijuana that is processed for use or consumption, including, without limitation, edible products, concentrates, ointments, tinctures, and any item defined as a "marijuana product" in the Recreational Marijuana Amendment.

Recreational marijuana local licensing authority means the city manager. The manager shall be the local licensing authority responsible for processing applications under this chapter for the purpose of the Recreational Marijuana Amendment and any state law that requires the city to designate a local licensing authority.

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. *Recreational marijuana plant* shall include immature plants except where specifically excepted in this code. For purposes of this chapter, any part of the plant removed is considered harvested and no longer part of a recreational marijuana plant, but marijuana.

Restricted area means the portion of a recreational marijuana business premises within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce recreational marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the recreational marijuana business license application for the business.

Safe means a metal box, attached to the building structure, capable of being locked securely, constructed in a manner to prevent opening by human or mechanical force, or through the use of common tools, including but not limited to hammers, bolt cutters, crow bars or pry bars. The city manager may approve security devices such as vaults and strong rooms that are functionally equivalent to safes.

University Hill commercial area means the area described as the University Hill General Improvement District in Appendix 8-A of Title 8 of this code.

Violation of any law or violated any law means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Virtually separated marijuana business means a co-located marijuana business that is not separated into two different premises.

Ordinance Nos. 7930 (2013); 7970 (2014); [8020 \(2014\)](#); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8276 \(2018\)](#)

6-16-3. - License Required.

- (a) License Required. It shall be unlawful for any person to operate a recreational marijuana business without obtaining a license to operate pursuant to the requirements of this chapter and holding a license in good standing from the state.
- (b) Additional Licenses and Permits May Be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by

any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.

- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premise from which a recreational marijuana business is operated. Except as specifically provided in this chapter, no two or more different businesses, including recreational marijuana businesses, may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a recreational marijuana business and any adjacent business.
- (e) License Nontransferable; Exceptions. A recreational marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business (including another marijuana business), or to a different owner or licensee. A recreational marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a recreational marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed recreational marijuana business shall be permitted in the following circumstance:
 - (1) The new owner and all licensees of the business have submitted completed applications and passed a background check by the city;
 - (2) The new owner is not making changes to any of the plans or conditions that are part of the license; and
 - (3) One of the following:
 - (A) The license transfer location is permitted without the exception of Subsection 6-16-7(c) of this chapter; or
 - (B) The license transfer is an arms-length third party transaction to one hundred percent new owners and managers.
- (f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the recreational marijuana business license will be issued. The term of the license shall be the same as the existing medical marijuana business license.
- (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license by submitting an application for a co-located marijuana business on forms approved by the city. At a minimum, the application form shall include a modification of the existing medical marijuana business to conform to the new footprint of the medical marijuana portion of the co-located marijuana business and all components of the application described in Section 6-16-5, "Application," B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and paying the modification of premises fee and operating fee specified in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation

from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.

- (h) Conversion to a Co-located Marijuana Business in an Expansion of the Existing Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license within a footprint that is an expansion of its existing medical marijuana business by submitting an application for modification of the existing medical marijuana business, and an application for co-location of a medical and recreational business within the modified premises on forms approved by the city by March 1, 2014. At a minimum, the application shall include (i) the same owners and financiers of the existing medical marijuana businesses, (ii) the proposed modification of the existing and expanded area of the existing medical marijuana business to depict the two new businesses separated as required by this code, (iii) all components of the application described in Section 6-16-5, "Application, " B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and (iv) the modification of premises fee, conversion fee, and operating fee specified in Section 6-16-5, "Application, " B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.
- (i) Virtual Separation of Co-located Marijuana Business. A co-located business may be virtually rather than physically separated if the businesses provide evidence that they have maintained their respective books and records in compliance with Section 6-16-9 of this chapter for the twelve months preceding the application for virtual co-location. For businesses that have been open for less than twelve months and those who have not complied with Section 6-16-9 in the past, the business shall provide evidence satisfactory to the city manager of the manner in which it will comply with Section 6-16-9.

Ordinance Nos. 7930 (2013); 7970 (2014); [8020 \(2014\)](#); [8031 \(2015\)](#); [8081 \(2015\)](#); [8157 \(2016\)](#); [8345 \(2019\)](#)

6-16-4. - General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to recreational marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the provisions of this chapter shall control for recreational marijuana business licenses.
- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove marijuana of any recreational marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Reserved.

- (f) Forfeiture of License. In the event that a recreational marijuana business does not commence operations within thirty days of issuance of a license from the city, the license shall be deemed forfeited, and the business may not commence operations.
- (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a recreational marijuana business unless the tenant has a valid recreational marijuana business license or has applied for and not been denied a recreational marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a recreational marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected recreational marijuana business is located to determine whether any marijuana is on the premises.
- (h) Requirements for Applications for Conversion to a Recreational Marijuana Business or Co-Location of Marijuana Businesses.
 - (1) As a condition of the city accepting an application for conversion of a medical marijuana business to a recreational marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business.
 - (2) As a condition of the city accepting an application for conversion to a co-located marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business.

Ordinance Nos. 7930 (2013); [8081 \(2015\)](#); [8157 \(2016\)](#)

6-16-5. - Application; Modification of Premises.

- (a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
 - (1) Name and address of the owner or owners of the recreational marijuana business in whose name the license is proposed to be issued.
 - (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
 - (B) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
 - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity and contact information for that person.
 - (2) Name and address of:
 - (A) Any keyholders of the recreational marijuana business, if the keyholder is proposed to be someone other than the owner;
 - (B) All financiers of the recreational marijuana business; and
 - (C) All agents of the recreational marijuana business who either (I) act with managerial authority, (II) provide advice to the recreational marijuana business for compensation, or

(III) receive periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of recreational marijuana.

- (3) A statement of whether or not any of the named owners, members, keyholders, financiers, or persons named on the application have been:
 - (A) Denied an application for a marijuana business license pursuant to this chapter, Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Denied an application for a liquor license pursuant to Title 12, Article 47 or Article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.
 - (C) Violated any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.
 - (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.
- (4) Proof of ownership or legal possession of the restricted area for a recreational marijuana business for the term of the proposed license. If the recreational marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
- (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
- (6) An operating plan for the proposed recreational marijuana business, including the following information:
 - (A) A description of the products and services to be provided by the recreational marijuana business.
 - (B) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the recreational marijuana business is to be located;
 - (ii) The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where underage persons will be permitted, storage areas, retail areas, and restricted areas where recreational marijuana will be located;
 - (iii) Areas where any services other than the distribution of recreational marijuana are proposed to occur in the premises; and
 - (iv) The separation of the areas that are open to persons who are underage from those areas open to persons qualified to use marijuana.
 - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.
 - (D) For cultivation facilities and marijuana-infused product manufacturers and marijuana testing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

- (E) For a marijuana-infused product manufacturer or a 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.
 - (F) The maximum amount of marijuana or marijuana-infused products that may be on the business premises.
- (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule, or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
 - (8) A lighting plan showing the lighting outside of the marijuana business for security purposes and compliance with applicable city requirements.
 - (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed-use development containing one or more residences.
 - (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, keyholders, and financiers employed by or under contract to provide services to the recreational marijuana business, including all individuals who have an interest as described herein of any portion of the recreational marijuana business, directly or as an agent, or a member, partner, or officer of a corporation, partnership, association, or company, and the reports from the Colorado and Federal Bureau of Investigation for each person.
 - (11) A plan for disposal of any recreational marijuana or marijuana-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
 - (12) 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.
 - (13) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used, kept, or created at the marijuana business, the location of such materials and how such materials will be stored.
 - (14) 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 marijuana business.
 - (15) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.

- (16) Modifications to Approved Recreational Marijuana Business License. Prior to making a modification of a marijuana business that would require a building permit or change items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit to the city and have approved, when necessary, a complete application for modification of premises in the form provided by the city.
- (17) Cold-Water Extraction at Recreational Marijuana Cultivation Facility. An area for Cold Water Extraction may be added to a recreational marijuana cultivation facility on the following conditions:
- (A) The cold-water extraction is conducted in a separate room within the footprint of the cultivation facility;
 - (B) The addition of the room for the cold-water extraction shall be a modification of the premises and the application and construction of the cold-water extraction room shall comply with all requirements for a major modification of a marijuana-infused product manufacturer;
 - (B) The requirements for a cold-water extraction room shall be the same as required for a marijuana-infused production facility and the application and operation of the cold-water extraction room shall comply with all requirements for such marijuana-infused production facility; and
 - (C) The cold-water extraction room shall be considered a separate marijuana business for all purposes of this code, except that it shall not be subject to the location restrictions separately from the marijuana cultivation facility.
- (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, keyholder, financier, or other person named on the application contains information regarding violations of any law, or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, and other regulatory licenses held without compliance violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.
- (c) Fee Required. Any application for a license for a marijuana business under this chapter shall be accompanied by the operating fee, criminal background fee, annual license fee, and any other applicable fees, as required by Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. Unless the State of Colorado has forwarded the application fee pursuant to Colorado Constitution Art. XVIII, § 16(5)(g)(II) to the city, the applicant shall submit the application fee set forth in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C., 1981 to the city with the application.
- (d) Inspection. An inspection of the proposed recreational marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any recreational marijuana, and prior to the opening of the business to the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this code and any other applicable law, rule, or regulation.
- (e) Complete Application. For purposes of this chapter, an application shall not be considered complete until the city manager has (i) determined that all requirements of the application have been provided to the city, (ii) received the reports from the fingerprint cards of each person required to submit such cards from the Colorado and Federal Bureau of Investigation, (iii) received the local share of \$2,500 for the application fee from the State of Colorado, and (iv) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
- (f) Approval Requirements. The city manager may issue a recreational marijuana business license if the inspection, background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location

consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fee, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information. The conditions of an approval of a recreational marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance Nos. 7930 (2013); [8157](#) (2016); [8240](#) (2018)

6-16-6. - Persons Prohibited as Licensees and Keyholders.

- (a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a recreational marijuana business, and no license provided by this chapter shall be issued to or held by, and no recreational marijuana business shall be managed by:
- (1) Any person until the annual fee for the license has been paid;
 - (2) Any person not of good moral character;
 - (3) Any corporation, any of whose officers, directors, or stockholders are not of good moral character;
 - (4) Any partnership, association, or company, any of whose officers or members holding an interest therein, or a managing member, is not of good moral character;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;
 - (6) Any person, unless such person's character, record, and reputation are satisfactory to the city manager;
 - (7) Any natural person who is under twenty-one years of age;
 - (8) Any person who operates or manages a recreational marijuana business contrary to the provisions of this chapter, any other applicable law, rule, or regulation, or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;
 - (9) Any person applying for a license to operate a recreational marijuana center who has been licensed to operate another recreational marijuana center in the city pursuant to this chapter;
 - (10) Any person applying for a license to operate a marijuana-infused product manufacturer facility who has been licensed to operate another marijuana-infused product manufacturer facility in the city pursuant to this chapter;
 - (11) A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
 - (12) A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
 - (13) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S. has been revoked by the state health agency; or
 - (14) A person that is a licensee for the application location that is currently licensed as a retail food establishment or a wholesale food registrant.
 - (15) Any person applying for a license to operate a marijuana center who has been licensed to operate three other marijuana centers in the city pursuant to either this chapter or Chapter 6-14.

For purposes of this subparagraph only, one co-located medical and recreational marijuana center is considered one marijuana center.

- (b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:
- (1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;
 - (2) Verification of, or lack of ability to verify, items disclosed by the individual;
 - (3) When an individual has a history of violation of any law, or a history including denial, revocation, or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse, or other violations of any laws that may directly affect the individual's ability to operate a recreational marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;
 - (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a recreational marijuana business;
 - (5) Rules adopted by the manager to implement this chapter;
 - (6) Law, rules, and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and
 - (7) Any additional information the manager may request of the individual if the individual has a violation of any laws, evidence of substance abuse issue, or items disclosed by the individual which require additional information in order for the manager to make a determination regarding issuance of the license.

Ordinance Nos. 7930 (2013); [8157](#) (2016)

6-16-7. - Locations of Recreational Marijuana Businesses.

- (a) **Fixed Location Required.** It shall be unlawful to operate a recreational marijuana business or to grow recreational marijuana outside of a locked enclosed space within a building. All recreational marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows recreational marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.
- (b) **Location - Permitted Use in Zoning District.** A recreational marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located, as follows:
- (1) as "personal service" for a recreational marijuana center;
 - (2) as "greenhouse/nursery" for a recreational marijuana cultivation facility; or
 - (3) as "manufacturing ≤ 15,000 square feet" for a recreational marijuana cultivation facility, for a marijuana-infused product manufacturer, or for a marijuana testing facility.
- (c) **No Recreational Marijuana Business in Building With Residences or Residential Zone Districts.** It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence.
- (d) **No Retail Sales in Cultivation Facilities or Manufacturing.** It shall be unlawful for any person to permit retail sales within a recreational marijuana business that is not a licensed recreational marijuana center.

- (e) Separation From Schools and Other Facilities.
- (1) No recreational marijuana center license shall be issued for a recreational marijuana center at a location within one thousand feet of any public or private elementary, vocational, or secondary school, or a college, university, or a state licensed day care center, or an addiction recovery facility. Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or named facility.
 - (2) Reserved.
 - (3) No recreational marijuana business license shall be issued for a recreational marijuana business at a location within five hundred feet of three other marijuana businesses.
 - (4) No recreational marijuana business license shall be issued for a recreational marijuana center at a location on the street level of the mall or the University Hill commercial area.
 - (5) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other recreational marijuana business.
 - (6) To determine the proximity to other recreational marijuana businesses and the priority of applications, businesses shall have priority in the following order:
 - (A) Licensed medical marijuana businesses;
 - (B) Marijuana establishment;
 - (C) Businesses for either medical or recreational business whose applications have been approved but licenses not yet issued;
 - (D) Applications for medical or recreational marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
 - (E) No other applications shall be considered "businesses" for this determination.
 - (7) Businesses that convert all or part of a medical marijuana business pursuant to Subsection 6-16-3(f) of this code are not subject to Paragraphs (1), (2), and (3) of this subsection. This exception is not transferrable.
 - (8) For purposes of this paragraph, *school*, *college*, or *university* shall include properties owned by such entities only if they are used to provide services, teaching facilities, or living facilities to students. No distance is required between a marijuana business and properties owned by a *school*, *college*, or *university* that are not used to provide teaching facilities, living facilities, or services to students.
- (f) Limitations on Dual Licenses. A recreational marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981, or a marijuana business license under this chapter or Chapter 6-14, "Medical Marijuana," B.R.C. 1981.
- (g) Limitations on Recreational Marijuana Centers and Co-Located Marijuana Center. The following shall be the minimum requirements for a recreational marijuana center and a co-located marijuana center:
- (1) The area of the business is less than or equal to three thousand square feet;
 - (2) There is a separate reception area for verification of age that has an occupancy limit appropriate for the anticipated customers of the business; and
 - (3) For co-located centers, there is a private consultation room.
- (h) Limitations on Recreational Marijuana-Infused Product Manufacturers and Marijuana Testing Facilities. The area of the premises may not be more than fifteen thousand square feet.

- (i) Limitation on Cultivation Facility Licenses. No licensee shall hold licenses for more than five marijuana cultivation facilities. This limitation limits the total number of cultivation facility licenses, including both licenses for medical and recreational marijuana cultivation facilities. The area of the premises of a cultivation facility may not be more than fifteen thousand square feet.

Ordinance Nos. 7930 (2013); 7970 (2014); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-16-8. - Requirements Related to Operation of Recreational Marijuana Businesses.

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the recreational marijuana business.
- (b) Restriction on Access to Business.
 - (1) No person under twenty-one years of age shall be in the business premises. No person shall be allowed entry into the business premises area without showing a valid picture identification. Recreational marijuana centers shall have an electronic scanner able to verify the legitimacy of the identification and maintain records for enforcement, as approved by the city manager. If a person does not have a valid picture identification that the person is at least twenty-one years of age, the owner or keyholder on the premises shall require that the person leave the business and any surrounding area possessed or controlled by the business. In the event the person has a valid government-issued proof of age that cannot be scanned, such as a passport or military ID, the business shall be allowed access so long as the ID reasonably appears to be accurate and valid.
 - (2) No person, other than an employee or contractor of the business or a visitor shall be permitted in the restricted area of the business. For purposes of this subsection, a visitor means a person that is accessing the restricted area for educational purposes. No access to the restricted area may be permitted by tourists or for compensation. The business must require that all visitors comply with all requirements for access to limited access areas as required by the Colorado Marijuana Enforcement Division. The log required shall be maintained on the business premises and available for inspection upon request by the city.
- (c) Display of Licenses Required. The name and contact information for the owner or owners and any keyholder of the recreational marijuana business, the recreational marijuana business license, and the sales tax business license shall be conspicuously posted in the business.
- (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a recreational marijuana business and shall not be visible from the exterior of the business.
- (e) Owner or Keyholder Required on Premises. No recreational marijuana business shall be managed by any person other than the licensee or the keyholder listed on the application for the license or a renewal thereof. Such licensee or keyholder shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person.
 - (1) In the event the licensee intends to employ a keyholder that was not identified on the license or renewal application, the licensee shall report the name of such keyholder to the city, and such keyholder shall submit to the city, at least thirty days prior to commencing serving as the keyholder, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in keyholders at least thirty days prior to employing an additional keyholder, and no more than five days after a keyholder is released from such position.
 - (2) In the event the licensee submits a completed application for the new keyholder with a copy of a valid Occupation Key Badge issued by the state Marijuana Enforcement Division, the applicant may work as a keyholder for the licensee upon submission of the application up until final city determination is made on such application.

- (3) For a co-located marijuana business that is physically separated, there shall be two keyholders, one designated for each license, within the co-located business. For a co-located marijuana business that is virtually separated, only one keyholder is required within the co-located business.
- (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 10 p.m. and 8 a.m. Provided however, in the event that a planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may be returned to the center.
- (g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a recreational marijuana business. A recreational marijuana business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.
- (h) 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.
- (i) Renewable Energy Requirements. A marijuana cultivation facility shall directly offset one hundred percent of its electricity consumption through a verified subscription in a Community Solar Garden, or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For a recreational marijuana center that has converted pursuant to Subsection 6-16-3(f) or co-located pursuant to Subsection 6-16-3(g), or a marijuana-infused product manufacturer licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the marijuana business license following October 22, 2013.
- (j) Limitations on Inventory. The recreational marijuana business shall not maintain any more marijuana within the premises than the amount stated on the business' license application to the State of Colorado and city. No plants shall be located in a recreational marijuana center or a marijuana-infused product manufacturer or a marijuana testing facility.
- (k) Reporting Requirements. A recreational marijuana business shall report to the recreational marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.
- (1) Transfer or change of financial interest, keyholder, or financier in the license to the city at least thirty days before the transfer or change;
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly;
 - (3) A violation of any law by any licensee or applicant of a recreational marijuana business;
 - (4) A notice of potential violation of any law related to the licensee;
 - (5) Upon city request, any report that the recreational marijuana business is required to provide to the State of Colorado that is reasonably necessary for compliance with city law; or
 - (6) Reports of all criminal activities or attempts of violation of any law at the recreational marijuana business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed marijuana business, all sales of recreational marijuana shall be made in person in the restricted area of a recreational marijuana center. All marijuana sales shall be in person, directly to the purchaser. No marijuana sales shall be made via telephone, internet, or other means of remote purchase. Deliveries of marijuana shall occur only in person to the purchaser at the time of purchase in the restricted area of a recreational marijuana center.
- (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to transport recreational marijuana, except as specifically allowed by applicable law, unless the recreational marijuana being transported meets the following requirements:

- (1) All marijuana-infused products are packaged, sealed, and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section;
 - (2) All recreational marijuana in a usable form is packaged and stored in closed containers that are labeled as provided in this section;
 - (3) Each container used to transport recreational marijuana is labeled with the amount of recreational marijuana or marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the recreational marijuana business that the recreational marijuana is being transported from, and the name and address of the recreational marijuana business that the recreational marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label;
 - (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be transported with proper bill of sale completed before transport only to another recreational marijuana business;
 - (5) The recreational marijuana must be accompanied by the manifest in accordance with state requirements for transportation of recreational marijuana;
 - (6) The recreational marijuana must be accompanied by the email receipt confirmation from the Boulder Police Department in accordance with the rules therefor established by the police department;
 - (7) When determining and reporting the route for delivery, licensees should select the most direct route that provides efficiency and safety; and
 - (8) Transport may be initiated from a marijuana business only during the hours allowed for operation of the center.
- (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the recreational marijuana plants within a recreational marijuana business may be mature, flowering plants.
- (p) Advertisement. A recreational marijuana business may not advertise in a manner except as specifically provided in Subparagraph (p)(2).
- (1) Prohibitions. The exceptions in Subparagraph (2) below shall not apply to advertising that is:
 - (A) misleading, deceptive, false, or designed to appeal to minors. The following conditions shall apply:
 - (B) in plain view of, or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property;
 - (C) on a product marked with the name or logo of a marijuana business, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors;
 - (D) distributed without charge within a marijuana business or any place open to the public; or
 - (E) contrary to any provisions of C.R.S. §§ 12-43.3 et seq. or 12-43.4, et seq. or any regulations adopted thereto.
 - (2) Exceptions: The prohibition set forth in this subsection (p) shall not apply to:

- (A) Any sign located on the same zone lot as a recreational marijuana center which exists solely for the purpose of identifying the location of the recreational marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address and days and hours of operation of the center;
 - (B) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet, which may include coupons;
 - (C) Any non-consumable merchandise or accessories;
 - (D) Advertising which is purely incidental to sponsorship of a charitable event by a recreational marijuana business;
 - (E) A booth at an adult event where the only items distributed are company or educational materials no other items are distributed, shown or sold;
 - (F) Business cards within the business or handed directly to an individual over the age of 21;
 - (G) Showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service; or
 - (H) Company materials and educational materials distributed inside the marijuana business.
- (q) The owner or a keyholder of a recreational marijuana business is required to respond by phone or email within twenty-four hours of contact by a city official concerning its recreational marijuana business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.
- (r) Separation of Marijuana Businesses - Exceptions for Co-located Businesses.
- (1) A cultivation facility and manufacturer are separate marijuana businesses requiring separate licenses and separate premises. A medical marijuana cultivation or manufacturing facility and a recreational marijuana cultivation or manufacturing facility are separate marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
 - (A) Have separate operations, heating-ventilation-air conditioning, security, and fire suppression systems, and separate access from a public area;
 - (B) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a recreational marijuana business and any adjacent business; and
 - (C) Obtain delivery documents and manifests and pay applicable excise tax for movement of any marijuana between the cultivation facility and the manufacturer.
 - (2) A co-located business, including a cold-water extraction facility that is part of a cultivation facility, is excepted from the requirements for separate heating-ventilation-air conditioning (except as required by the industrial hygienist), security, or fire suppression.
 - (3) A cultivation and cold-water extraction facility that is a co-located business is exempt from the requirement for separate access from a public area, so long as the interior connection between the two maintains the required physical and fire separation required between licensed premises.
- (s) Additional Requirements for Testing or Production of Recreational Marijuana.
- (1) No recreational 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; and

- (2) 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.
- (t) Packaging at a Recreational Marijuana Center. Provided that recreational marijuana has been delivered to a recreational marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a recreational marijuana center may package and label any marijuana that results from the sale of recreational marijuana in amounts less than as packaged for delivery to the center.
- (u) Packaging of Marijuana-Infused Product. Unless the actual amount of marijuana in a marijuana-infused product is contained on the label of the packaged product, any product over one ounce shall be presumed to have more than one ounce of marijuana in the product.
- (v) Scanner for Proof of Age. The recreational marijuana center 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 that contains all of the components approved by the city manager. For legitimate identifications that cannot be scanned, including passports, military IDs and other lawful government issued identification, use of the electronic ID scanner is not required, but the business shall be responsible for verifying that the identification provided is reliable verification of the age of the person.
- (w) Organization of Cultivation Facilities and Marijuana-Infused Product Manufacturers. All cultivation facilities and marijuana-infused product manufacturers shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and inventory and to exits.
- (x) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has reasonable cause to believe that person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana or marijuana product, the licensee or employee shall be authorized to confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be turned over to the Boulder Police Department
- (y) Virtually-separated centers or cultivation facilities. A virtually-separated marijuana business shall maintain separate marijuana business licenses, with separate books, records and inventories of all transactions. For purposes of sales, use and excise tax, all transactions shall be considered recreational marijuana unless the business can prove that the transaction was for medical marijuana. A virtually-separated marijuana business may not allow entrance to anyone under 21 years of age on the premises of the business. The floor plan for a virtually separated center shall depict the separate sales counters, display and storage areas for recreational and medical marijuana. A violation of any of the requirements of this code for a virtually separated business is a public safety violation.
- (z) Sale of Immature Plants. A marijuana center may not sell immature plants, unless (a) no more than six (6) immature plants are sold to any one customer, and, (b) the immature plants are not transferred from the marijuana cultivation facility to the center until the day the patient is to pick up the immature plants and no immature plants are maintained at the center overnight. The business may require a deposit with any pre-orders.

Ordinance Nos. 7930 (2013); 7970 (2014); [8020 \(2014\)](#); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8307 \(2019\)](#); 8319 (2019)

6-16-9. - Right of Entry - Records to Be Maintained.

- (a) **Records to Be Maintained.** Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track recreational marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any recreational marijuana from other paraphernalia or services offered by the recreational marijuana business. The licensee shall also maintain inventory records evidencing that no more recreational marijuana was within the recreational marijuana business than allowed by applicable law. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, and dates for all recreational marijuana sold.
- (b) Reserved.
- (c) **Disclosure of Records.** By applying for a recreational marijuana business license, the licensee is providing consent to disclose the information required by this chapter. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
- (d) **Audits.** The city may require an audit to be made of the books of account and records of a recreational marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the recreational marijuana business. The expense of any audit determined necessary by the city shall be paid by the recreational marijuana business.
- (e) **Consent to Inspection.** Application for a recreational marijuana business license or operation of a recreational marijuana business, or leasing property to a recreational marijuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, to permit the city manager to conduct routine inspections of the recreational marijuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner or keyholder on duty shall retrieve and provide the records of the business pertaining to the inspection, including the security tapes from the cameras required by the security plan. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of recreational marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the recreational marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a recreational marijuana business license constitutes consent to inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a recreational marijuana license without a search warrant.
- (f) **Reporting of Source, Quantity, and Sales.** The records to be maintained by each recreational marijuana business shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and retail sales transactions, the following:
 - (1) Date, weight, type of marijuana, and dollar amount or other consideration of transaction;

- (2) For wholesale transactions, the State of Colorado, and city, if any, sales and use tax license number of the seller; and
- (3) The amount of marijuana within the restricted area.
- (g) Reporting of Energy Use and Compliance with Renewable Energy Requirements. The records to be maintained and submitted to the city by each recreational marijuana cultivation facility shall include, without limitation, records showing on a monthly basis the use and source of energy and any renewable energy generated onsite or through a Community Solar Garden subscription. Such records shall include all statements, reports, or receipts to verify the items included in the report of the business. By application for a recreational marijuana business license from the city for a cultivation facility, the recreational marijuana cultivation facility grants permission to providers of the energy or other renewable energy acquisition program to disclose the records of the business to the city. Recreational marijuana businesses shall maintain records showing compliance with the renewable energy requirements in this chapter.

Ordinance No. 7930 (2013); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#); [8307 \(2019\)](#)

6-16-10. - Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. Except for a co-located marijuana business that is virtually separated, a separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) Cameras. The recreational marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms), and where persons may gain or attempt to gain access to marijuana or cash maintained by the recreational marijuana business. Cameras shall record operations of the business to the offsite location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within seventy-two hours of any change of such location.
- (b) Use of Safe for Storage. The recreational marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe, so long as the container is affixed to the building structure.
- (c) Alarm System. The recreational marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and be updated within seventy-two hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for law enforcement to respond to the alarm shall remain on the premises at all times.

Ordinance No. 7930 (2013); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-16-11. - Requirements for Public Health and Labeling.

- (a) Recreational Marijuana-Infused Products. The production of any marijuana-infused product shall be at a marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of

any product containing marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the recreational marijuana-infused products were food items.

- (b) Labeling and Packaging Requirements. All recreational marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that is in compliance with all applicable requirements of the State of Colorado and any other applicable law.
- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance Nos. 7930 (2013); [8157](#) (2016)

6-16-12. - Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for recreational use shall also apply to recreational marijuana businesses in the city. Provided, however, that, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits 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 is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No recreational marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses, or if a recreational marijuana business is denied a recreational marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (c) Revocable Privilege. A recreational marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance No. 7930 (2013)

6-16-13. - Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Unlawful to sell or distribute marijuana to any persons under the age of twenty-one;
 - (2) Cultivate, distribute, produce, smoke, use, or ingest marijuana openly or publicly in a place open to the general public;
 - (3) Smoke, use, or ingest on the premises of the recreational marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous, and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges;

- (4) Operate or be in physical control of any recreational marijuana business, liquor establishment, vehicle, aircraft, or motorboat while under the influence of alcohol or marijuana or other intoxicant;
- (5) Possess more than six marijuana plants without a recreational marijuana business license for a cultivation facility;
- (6) Possess more than one ounce of a usable form of marijuana without a recreational marijuana business license for a center or a marijuana-infused product manufacturer;
- (7) Obtain marijuana for remuneration from a person who is not licensed as a recreational marijuana business;
- (8) Possess or operate a recreational marijuana business in violation of this chapter;
- (9) Produce, distribute, or possess more marijuana than allowed in this chapter, or than disclosed in the application to the State of Colorado for a recreational marijuana business license, or other applicable law;
- (10) Distribute marijuana for remuneration without a recreational marijuana business license or outside of the restricted area of the recreational marijuana business;
- (11) Possess recreational marijuana, or own or manage a recreational marijuana business, or own or manage a building with a recreational marijuana business, where there is possession of recreational marijuana, by a person who is not lawfully permitted to possess recreational marijuana;
- (12) Possess or operate a recreational marijuana business in a location or in a manner for which a recreational marijuana business license is prohibited by the terms of this chapter;
- (13) Operate a recreational marijuana business without a recreational marijuana business license from the city;
- (14) Operate a recreational marijuana business in a manner that is not consistent with the items disclosed in the application for the recreational marijuana business, or is in violation of any plan made part of the license application;
- (15) Operate a recreational marijuana business without disclosing, in the application for a recreational marijuana business license or an amendment thereto, an agent who either (1) acts with managerial authority, (2) provides advice to the recreational marijuana business for compensation, or (3) receives periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person;
- (16) Own or manage a recreational marijuana business where distribution occurs of a marijuana-infused product that was produced in a manner that is not in compliance with this chapter;
- (17) Operate a recreational marijuana business without a recreational marijuana business license prior to passing the inspection required by this chapter;
- (18) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city;
- (19) Attempt to use or display a recreational marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license;
- (20) Own or manage a recreational marijuana business in which another person cultivates, produces, distributes, or possesses marijuana, in violation of this chapter or any other applicable law;
- (21) Allow an owner or keyholder that has not been disclosed to the city as required by this chapter to operate the business;

- (22) Own, manage, or possess a recreational marijuana business where marijuana is outside of the restricted area portion of such business;
- (23) Possess a number of flowering plants that is more than one-half of the recreational marijuana plants that are lawfully possessed by a person;
- (24) Dispose of marijuana or any byproduct of marijuana containing marijuana in a manner contrary to this chapter;
- (25) Distribute a marijuana plant to any person, except as provided in this chapter for immature plants;
- (26) Deliver or transport marijuana to a person or between recreational marijuana businesses in a manner contrary to this chapter or other law;
- (27) Refuse to allow inspection of a recreational marijuana business upon request of a city employee or consultant of the city. Any licensee, owner, keyholder, or operator of a recreational marijuana business, or the owner of the property where a recreational marijuana business is located, may be charged with this violation;
- (28) Advertise or publish materials, honor coupons, sell or give away products, or display signs that are in violation of this code;
- (29) Violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (30) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (31) Lease any property to a recreational marijuana business that has marijuana on the property without a recreational marijuana business license from the city;
- (32) Operate a private club where marijuana is possessed or used by any person at the private club;
- (33) Remove marijuana harvested from a plant from the enclosed, locked space where the plant was grown, except as provided in this chapter;
- (34) Distribute marijuana within a recreational marijuana center to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs;
- (35) Permit a minor on the premises of the business;
- (36) Fail to respond by phone or email as required by Subsection 6-16-8(q) of this chapter;
- (37) Produce any marijuana without a license from the city for a marijuana-infused product manufacturer;
- (38) Distribute, or contract to distribute, marijuana using any freight or package service, community rideshare, or other commercial transportation network, not including the United States Postal Service, unless such transporter has a license from the state to transport marijuana;
- (39) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based marijuana concentrate, in the same premise as marijuana without a license from the city as a marijuana-infused product manufacturer or a marijuana testing facility;
- (40) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other periodical of general circulation within the city or on the internet;
- (41) Failure to provide a copy or record of a coupon authorized under this chapter upon request of an authorized city employee;

- (42) Failure to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person or disruption to the business;
 - (43) Failure to post the premises during a suspension;
 - (44) Distribute any consumable product, other than bottled water, that is not a marijuana-infused product.
- (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, mental confusion, slowed responses, rigid muscles, body tremors, or dry mouth, or any other indicators of impairment.

Ordinance Nos. 7930 (2013); 7970 (2014); [8081 \(2015\)](#); [8157 \(2016\)](#); [8240 \(2018\)](#)

6-16-14. - Suspension or Revocation of License; Imposition of Fines.

- (a) A recreational marijuana business license may be suspended or revoked for any of the following violations:
- (1) Conviction of the business, a licensee, or any owner, keyholder, or financier of any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the recreational marijuana business;
 - (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application;
 - (4) Distribution of recreational marijuana, including, without limitation, delivering or transporting marijuana, in violation of this chapter or any other applicable law, rule, or regulation;
 - (5) Operation of a recreational marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter;
 - (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, keyholders, financier, or agent;
 - (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or Colorado Department of Public Health and Environment, or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law;
 - (9) Revocation or suspension of another recreational marijuana business license or any other license issued by the city, the State of Colorado, or any other jurisdiction held by any licensee of the recreational marijuana business; or
 - (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.
- (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.

- (c) Civil penalties for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.
- (d) If the city revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Boulder Police Department.
- (e) In the event of the suspension of a marijuana business license, the marijuana business, during the suspension period:
 - (1) Shall post two notices as provided by the Marijuana Licensing Authority, in conspicuous places, one on the exterior and one on the interior of its premises for the duration of the suspension; and
 - (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers into the licensed premises.

Ordinance Nos. 7930 (2013); 7970 (2014); [8081 \(2015\)](#); [8157 \(2016\)](#)

6-16-15. - Term of License - Renewals - Expiration of License.

- (a) Term of License. A recreational marijuana business license shall be valid for one year. The license shall expire on the date stated on the license, but no more than twenty-four months, to facilitate the administration by the city of renewals and coordinate with the date for renewal of the state license of such licenses.
- (b) Renewal of License. The licensee shall apply for renewal of the recreational marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant submits a late filing fee of \$5,000 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
 - (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any keyholder, financier, agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include: (i) verification that the business has a valid state license and the state license is in good standing; and (ii) a list from the licensee of the city-approved keyholders who are employed at the licensed location to be renewed.

- (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the police report numbers or case numbers of all police calls to the recreational marijuana business; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.
 - (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
 - (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-16-4(e) of this chapter.
- (c) Nonpayment of Tax. In the event a recreational marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the recreational marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
- (d) Expiration of License. Expiration of a recreational marijuana business license for any reason, including, without limitation, pursuant to Subsection (c) of this section, shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

Ordinance Nos. 7930 (2013); [8157](#) (2016); [8240](#) (2018)

6-16-16. - City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance No. 7930 (2013)

Part 6-
Hemp Licensed Businesses

Chapter 33 - Hemp

4-33-1. - Legislative Intent, Findings, and Purpose.

- (a) Legislative Intent and Findings. The city council intends to regulate the cultivation and production of hemp as it affects the community by its odor and potentially dangerous production process and not to treat hemp the same as marijuana, except to recognize it comes from the same plant with the same odor and is produced in the same or substantially similar manner as marijuana, and finds that the provisions of this chapter are directly and demonstrably related to the cultivation and production of hemp establishments in a manner to minimize negative impacts on the community.
- (1) Hemp cultivation, and production can have an impact on health, safety, and community resources, and the code is intended to permit hemp cultivation and production where it will have a minimal impact, and potential negative impacts are minimized.
 - (2) The General Assembly has adopted enabling legislation and the Colorado Department of Agriculture and Colorado Department of Public Health and Environment have adopted regulations that provide for hemp cultivation, however, the state law is not intended to, and does not, address the local impacts of hemp cultivation or production, making it appropriate for local regulation of hemp operations.
 - (3) This chapter is intended to specify the time, place, and manner restrictions for cultivation and production of hemp.
 - (4) The cultivation or production of hemp without a license from the city as provided in this chapter is prohibited within the city.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents, businesses, and property in the city by prescribing the manner in which cultivation and production of hemp can be conducted in the city.

Further, the purpose of this chapter is to:

- (1) Protect public health and safety through reasonable limitations on hemp cultivation and production operations as they relate to noise, air, and water quality, food safety, neighborhood and public safety, and other health and safety concerns;
 - (2) Impose fees for licensing hemp businesses in an amount sufficient for the city to recover its costs of the licensing program;
 - (3) Adopt a mechanism for monitoring compliance with the provisions of this chapter;
 - (4) Create regulations that address the particular needs of the residents and businesses of the city and coordinate with laws that may be enacted by the State of Colorado regarding hemp;
 - (5) Issue hemp licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials;
 - (6) Protect public safety and residential areas by limiting the areas of the city where more than six hemp plants may be grown; and
 - (7) Ensure that any production that converts hemp to marijuana is subject to Chapter 6-16 of this Code.
- (c) Relationship to State Law. The provisions in this chapter that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the Charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply.

Ordinance No. [8393](#) (2020)

4-33-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Cannabis means the plant from the genus *cannabis* and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not. Unless Cannabis can be conclusively determined to be Hemp, it shall be considered marijuana.

Cultivation or *cultivate* means: (i) all phases of growth of hemp from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of Hemp prior to consumption, or incorporation into a recreational marijuana-infused product.

Cultivation facility means a licensed hemp business that produces and harvests hemp plants for distribution by a licensed Hemp business.

Hemp means the plant from the genus *cannabis* and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis. Unless Cannabis can be conclusively determined to be Hemp, it shall be considered marijuana.

Hemp business means (a) any person that cultivates or makes available more than six Hemp plants, or (b) any person that produces Hemp-infused products. The term Hemp business shall not include the private cultivation of six plants in an enclosed, locked space.

Hemp-infused product means a product infused with Hemp that is processed for use or consumption, including, without limitation, edible products, concentrates, ointments, and tinctures.

Hemp plant means a hemp seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. For purposes of this chapter, any part of the plant removed from the growing medium is considered harvested and no longer part of a hemp plant, but cannabis that may be hemp or marijuana.

Licensee means the Hemp business named on the hemp business license, and all individuals named in the hemp business license application or later reported to the city.

Marijuana means any Cannabis that does not meet the definition of Hemp. Any Cannabis shall be considered Marijuana unless it can be definitely determined to be Hemp.

Marijuana establishment means a recreational marijuana business that has a license from the State of Colorado and the city to operate.

Mixed use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of premises means a change to a Hemp business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the hemp business license. Modification of premises does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Possess or *possession* means having physical control of an object, or control of the premises in which an object is located or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for Possession. The owner of a hemp business shall be considered in Possession of the Hemp business at all times.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area.

Produce or *production* means: (i) combining hemp with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling, or relabeling; or (iii) extracting or processing hemp as defined by the state of Hemp or its derivatives, whether alone or mixed with any amount of any other substance. Production shall not include packaging or repackaging, labeling, or relabeling of Hemp if no Production has occurred and such packaging and labeling qualify as cultivation.

Restricted area means the portion of a Hemp business Premises within which the licensee defines on its application it intends to cultivate or produce Hemp and which area is clearly identified as the restricted area on the floor plan submitted with the hemp business license application for the business.

Violation of any law or *violated any law* means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Ordinance No. [8393](#) (2020)

4-33-3. - License Required.

- (a) License Required. It shall be unlawful for any person to operate a hemp business without obtaining a license to operate pursuant to the requirements of this chapter and any state registration license, or permit required for a hemp business.
- (b) Additional Licenses and Permits May Be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.
- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premise from which a hemp business is operated. Except as specifically provided in this chapter no two or more different businesses may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a hemp-infused product manufacturer and any adjacent business.
- (e) License Nontransferable. A hemp business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business (including another hemp business), or to a different owner or licensee. A hemp business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a hemp license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter.

Ordinance No. [8393](#) (2020)

4-33-4. - General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to hemp business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1,

"General Licensing Provisions," B.R.C. 1981, the provisions of this chapter shall control for hemp business licenses.

- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove hemp from any hemp business, or any person cultivating or producing hemp, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a hemp business unless the tenant has a valid hemp business license or has applied for and not been denied a hemp business license or no hemp is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a hemp business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected hemp business is located to determine whether any cannabis is on the premises.

Ordinance No. [8393](#) (2020)

4-33-5. - Application; Modification of Premises.

- (a) Application Requirements. An application for a hemp business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
 - (1) Name and address of the owner or owners of the hemp business in whose name the license is proposed to be issued.
 - (2) A statement of whether or not the named owner(s), have been:
 - (A) Denied an application for a marijuana business license, a hemp license, or a liquor license, or any other regulatory license or registration, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Received any violations or warnings from the Colorado Department of Public Health and Environment or the Colorado Department of Agriculture related to the cannabis business.
 - (3) Proof of ownership or legal possession of the restricted area for a hemp business for the term of the proposed license. If the hemp business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
 - (4) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
 - (5) An operating plan for the proposed hemp business, including the following information:
 - (A) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the hemp business is to be located; and
 - (ii) The principal uses of the floor area depicted on the floor plan.

- (B) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.
 - (C) For cultivation facilities and hemp-infused product manufacturers a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.
 - (D) A plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the cannabis plant, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The city shall require the manufacturer to obtain a report from an industrial hygienist to verify that the plan submitted, review any chemicals and the amounts proposed, and the improvements to be constructed, adequately protect the business and adjacent properties and persons, and comply with all applicable laws.
 - (E) The maximum amount of hemp or hemp-infused products that may be on the business premises.
 - (F) A plan to locate by main entrance Material Safety Data Sheets (MSDS) documents for any chemicals on premise and copies of state inspections for the past two-year period.
- (6) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the hemp business is located, the proximity of the property to any licensed cannabis business or to any residential zone district or a mixed-use development containing one or more residences.
 - (7) A plan for disposal of any cannabis or cannabis-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
 - (8) An odor control plan for ventilation of the hemp business that describes the ventilation systems that will be used to prevent any odor of cannabis 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 hemp-infused product manufacturers, 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.
 - (9) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a hemp business, that will be used, kept, or created at the hemp business, the location of such materials and how such materials will be stored.
 - (10) A description of the processes used to extract or distill hemp from its source and the process used to incorporate hemp 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 cannabis business.
 - (11) Modifications to Approved Hemp Business License. Prior to making a modification of a hemp business that would require a building permit or change items required by subsection (5), (6) or (11) of this subsection (a), the licensees shall submit to the city and have approved, when necessary, a complete application for modification of premises in the form provided by the city.
- (b) Fee Required. Any application for a license for a hemp business under this chapter shall be accompanied by the registration fee, license application fee, annual renewal fee, and any other applicable fees, as required by Section 4-20-73, "Hemp Businesses," B.R.C. 1981.
 - (c) Inspection. An inspection of the proposed hemp business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any cannabis, and prior to the opening of the business to the public. The inspection is to verify that the business facilities are constructed and can be operated

in accordance with the application submitted and the applicable requirements of this code and any other applicable law, rule, or regulation.

- (d) Complete Application. For purposes of this chapter, an application shall not be considered complete until the city manager has (i) determined that all requirements of the application have been provided to the city, and (ii) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
- (e) Approval Requirements. The city manager may issue a hemp business license if the inspection and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fees, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information. The conditions of an approval of a hemp business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance No. [8393](#) (2020)

4-33-6. - Locations of Hemp Businesses.

- (a) Fixed Location Required. It shall be unlawful to operate a hemp business or to grow hemp outside of a locked enclosed space within a building. All hemp business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows hemp may be cultivated or produced shall be considered the "restricted area" portion of the business premises.
- (b) Location—Permitted Use in Zoning District. A hemp business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located, as follows:
 - (1) As "greenhouse/nursery" for a hemp cultivation facility; or
 - (2) As "manufacturing ≤ 15,000 square feet" for a hemp cultivation facility or for a hemp-infused product manufacturer.
- (c) No Hemp Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a hemp business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence.
- (d) Separation From Other Facilities.
 - (1) No hemp business license shall be issued for a hemp business at a location within five hundred feet of three other cannabis businesses. This subsection (1) shall not apply to hemp businesses that had a city business license on July 1, 2020.
 - (2) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other cannabis business.
 - (3) To determine the proximity to other cannabis businesses and the priority of applications, businesses shall have priority in the following order:
 - (A) Licensed cannabis businesses;
 - (B) Businesses for either cannabis businesses whose applications have been approved but licenses not yet issued;

- (C) Applications for cannabis business licenses that have been submitted by the applicant and declared complete by the city; and
- (D) No other applications shall be considered "businesses" for this determination.
- (e) Limitations on Dual Licenses. A hemp business license may not be issued for any location which also is a part of a marijuana business license under Chapter 6-14, "Medical Marijuana," or 6-16, "Recreational Marijuana," B.R.C. 1981.
- (f) Limitations on Hemp Extraction and Cultivation Product Manufacturers and Marijuana Testing Facilities. The area of the premises may not be more than fifteen thousand square feet.

Ordinance No. [8393](#) (2020)

4-33-7. - Requirements Related to Operation of Hemp Businesses.

- (a) Display of Licenses Required. The name and contact information for the owner or owners a of the hemp business, and the sales tax business license shall be conspicuously posted in the business.
- (b) Business Conducted Within Building. Any and all cultivation, production, or storage shall occur only within the hemp business and shall not be visible from the exterior of the business.
- (c) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any hemp cultivated or produced by a hemp business. A hemp business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.
- (d) Ventilation Required. A hemp business shall be ventilated so that the odor of cannabis cannot be detected by a person with a normal sense of smell at the exterior of the hemp business or at any adjoining use or property.
- (e) Reporting Requirements. A hemp business shall report to the city each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.
 - (1) Report that the hemp business is required to provide to the State of Colorado for a hemp business; or
 - (2) Reports of all criminal activities or attempts of violation of any law at the hemp business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (f) Disposal of Cannabis and Cannabis Byproducts. All cannabis and any product containing a usable form of cannabis must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (g) The owner of a hemp business is required to respond by phone or email by the end of the next business day of contact by a city official concerning its hemp business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.
- (h) Additional Requirements for Production of Hemp.
 - (1) No hemp business may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors, to process or test hemp unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist; and
 - (2) The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing hemp 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.

- (i) Organization of Hemp Cultivation Facilities and Hemp-Infused Product Manufacturers. All hemp cultivation facilities and hemp-infused product manufacturers shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and inventory and to exits.

Ordinance No. [8393](#) (2020)

4-33-8. - Right of Entry—Records to Be Maintained.

- (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track cannabis product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any cannabis from other paraphernalia or services offered by the hemp business. The licensee shall also maintain inventory records evidencing that no more cannabis was within the hemp business than allowed by applicable law. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all cannabis received or purchased, and the amount, price, and dates for cannabis sold.
- (b) Disclosure of Records. By applying for a hemp business license, the licensee is providing consent to disclose the information required by this chapter. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
- (c) Audits. The city may require an audit to be made of the books of account and records of a hemp business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the hemp business. The expense of any audit determined necessary by the city shall be paid by the hemp business.
- (d) Consent to Inspection. Application for a hemp business license or leasing property to a hemp business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, to permit the city manager to conduct routine inspections of the hemp business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner shall retrieve and provide the records of the business pertaining to the inspection. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of hemp businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the hemp business, and the adjoining properties and neighborhood, as provided in Section 4-33-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a hemp business license constitutes consent to inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a hemp business license without a search warrant.

- (e) Reporting of Source, Quantity, and Sales. The records to be maintained by each hemp business shall include the source and quantity of any hemp distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and retail sales transactions, the following:
 - (1) Date, weight, type of hemp, and dollar amount or other consideration of transaction;
 - (2) For wholesale transactions, the State of Colorado, and city, if any, sales and use tax license number of the seller; and
 - (3) The amount of hemp within the restricted area.

Ordinance No. [8393](#) (2020)

4-33-9. - Requirements for Public Health and Labeling.

- (a) Hemp-Infused Products. The production of any hemp-infused product shall be at a hemp-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing cannabis shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the hemp-infused products were food items.
- (b) Labeling and Packaging Requirements. All hemp sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that is in compliance with all applicable requirements of the State of Colorado and any other applicable law.
- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance No. [8393](#) (2020)

4-33-10. - Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation or production of hemp shall also apply to hemp businesses in the city. Provided, however, that, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits 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 is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No hemp business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocable Privilege. A hemp business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance No. [8393](#) (2020)

4-33-11. - Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Possess more than six hemp plants without a hemp business license for a cultivation facility;

- (2) Possess or operate a hemp business in violation of this chapter;
- (3) Possess or operate a hemp business in a location or in a manner for which a hemp business license is prohibited by the terms of this chapter;
- (4) Operate a hemp business without a hemp business license from the city;
- (5) Operate a hemp business in a manner that is not consistent with the items disclosed in the application for the hemp business, or is in violation of any plan made part of the license application;
- (6) Operate a hemp business without a hemp business license prior to passing the inspection required by this chapter;
- (7) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city;
- (8) Own or manage a hemp business in which another person cultivates or produces hemp in violation of this chapter or any other applicable law;
- (9) Dispose of cannabis or any byproduct of cannabis containing cannabis in a manner contrary to this chapter;
- (10) Refuse to allow inspection of a hemp business upon request of a city employee or consultant of the city. Any licensee, owner, or operator of a hemp business, or the owner
- (11) Violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the operation of a hemp business;
- (12) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the operation of a hemp business;
- (13) Lease any property to a hemp business that has hemp on the property without a hemp business license from the city;
- (14) Fail to respond by phone or email as required by Subsection 4-33-7(g) of this chapter;
- (15) Produce any hemp without a license from the city for a hemp-infused product manufacturer;
- (16) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based hemp concentrate, in the same premise as hemp without a license from the city as a hemp-infused product manufacturer; or
- (17) Failure to post the premises during a suspension.

Ordinance No. [8393](#) (2020)

4-33-12. - Suspension or Revocation of License; Imposition of Fines.

- (a) A hemp business license may be suspended or revoked for any of the following violations:
 - (1) Conviction of the business, a licensee, or any owner, of any violation of this chapter or any other law, rule, or regulation applicable to the use of cannabis or operation of a cannabis business;
 - (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the hemp business;
 - (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application;

- (4) Operation of a hemp business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the operation of a hemp business;
 - (5) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter;
 - (6) Temporary or permanent closure, or other sanction of the business, by the city, or by the county, or by the Colorado Department of Agriculture, or by the Colorado Department of Public Health and Environment, or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law;
 - (7) Revocation or suspension of another cannabis business license or any other license issued by the city, the State of Colorado, or any other jurisdiction held by any licensee of the cannabis business; or
 - (8) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.
- (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.
 - (c) Civil penalties for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.
 - (d) If the city revokes or suspends a license, the business may not move any cannabis from the premises except under the supervision of the Boulder Police Department.
 - (e) In the event of the suspension of a hemp business license, the hemp business, during the suspension period:
 - (1) Shall post two notices as provided by the city in conspicuous places, one on the exterior and one on the interior of its premises for the duration of the suspension; and
 - (2) Shall not cultivate or produce hemp nor allow any customers into the licensed premises.

Ordinance No. [8393](#) (2020)

4-33-13. - Term of License—Renewals—Expiration of License.

- (a) Term of License. A hemp business license shall be valid for one year. The license shall expire on the date stated on the license. In order to facilitate the administration by the city of renewals or to coordinate with the date for renewal of the state license for the same business, the initial term may be for more than one-year, but no more than twenty-four months.
- (b) Renewal of License. The licensee shall apply for renewal of the hemp business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant submits a late filing fee of \$1,500 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.

- (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include: (i) verification that the business has a valid state license and the state license is in good standing.
 - (6) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
 - (7) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-16-4(e) of this chapter.
- (c) Nonpayment of Tax. In the event a hemp business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the hemp business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
 - (d) Expiration of License. Expiration of a hemp business license for any reason, including, without limitation, pursuant to Subsection (c) of this section, shall be considered an inactive local license.

Ordinance No. [8393](#) (2020)

4-33-14. - City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance No. [8393](#) (2020)

Part 7-

City Manager's Rules for Marijuana Businesses

STANDARD (NON-EMERGENCY) RULE

Rules 1 through 6 Regarding Medical and Recreational Marijuana Businesses

1. Penalty Schedule Guidelines

The following chart is adopted as the Guidelines for (a) the Marijuana Licensing Authority in recommending fines, suspension or revocation, and (b) the Municipal Court in quasi-judicial proceedings pursuant to Subsections 6-14-14(c) and 6-16-14(c).

**City of Boulder Draft Marijuana License
Penalty Schedule Guidelines - August 3, 2016**

Penalty Guidelines superseded by
2019 version

The following is the Penalty Schedule that is used for guidance by the Boulder Marijuana Licensing Authority when proposing penalties. This schedule includes the most frequently occurring violations, but it is not an all-inclusive list of all possible violations of the Boulder Marijuana Codes.

The city Marijuana Enforcement team members are always available to answer questions beforehand about compliance from Boulder Marijuana businesses to ensure that their business operations remain compliant with our local law. Additionally, the City of Boulder offers MJ sales and service training for stores, key-holder training about city inspection requirements and enforcement trends, and MJ city tax requirement trainings so that Boulder Marijuana businesses can acquaint themselves with local laws and operating requirements. Notices for these city trainings will be posted on the City of Boulder licensing office website.

Actual penalties may vary depending on a variety of factors such as mitigating or aggravating circumstances, efforts of business to correct the violation, or time between violations. Boulder marijuana businesses have a right of appeal for fine, suspension, and revocation recommended penalties, and if an appeal is timely filed a quasi-judicial hearing before a city municipal court judge will be held.

<u>Operational Infractions</u>	First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Unsealed MJ possession by employees at licensed premise or acceptance of samples by employees	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
MJ product or plants not properly packaged for removal/transport or MIP products not properly labeled	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Unapproved goods sold at licensed premise	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
ID scanner not utilized and/or failure to properly verify ID for determination of age	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Refusing to remove key-holder from management when background is unapproved by city	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Failure to obstruct view MJ of sales or storage of MJ from public view	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation

STANDARD (NON-EMERGENCY) RULE

<u>Impact on Community or Safety Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Illegal Advertising	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
For Medical Marijuana wellness centers only, not having a private consultation room or not offering other holistic offerings at licensed location	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
No city approved key-holder or owner on-site	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Uncooperative with PD with inspections or investigations or misrepresentation to regulators	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Refusal to allow city inspections or premise access	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Sale of LLC shares or corporate stock in Boulder business or adding officers/managing members without proper and complete 30-day pre-file with the city	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Secure dispensing area not locked or restricted licensed location unlocked	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
MJ product transport details not emailed to BPD and email bounce back not printed for transportation by licensee	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Processing of MJ in violation of the Code (e.g. at store, at a grow or illegal processing at a MIP)	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to abide by neighborhood responsibility plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to remedy odor violations as directed	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
On-premise consumption by customers	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to operate business in compliance with the license or its operating plan or security plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation

STANDARD (NON-EMERGENCY) RULE

<u>Health, Safety and Security Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Use of unapproved locking storage that does not qualify as a safe	\$3,000 fine	\$4,000 fine	\$5,000 fine	Revocation
Not making disposed of MJ unusable and unrecognizable and not locking dumpsters	\$3,000 fine	\$4,000 fine	\$5,000 fine	Revocation
Not locking product or receipts in a safe for overnight storage	\$3,500 fine	\$5,000 fine	Revocation	
MJ or MJ product outside of a licensed premise	\$3,500 fine	\$5,000 fine	Revocation	
Making a permanent modification of the licensed premises without prior city approval	\$3,500 fine	\$5,000 fine	Revocation	
On-premise consumption by employees, managers or owners	\$3,500 fine	\$5,000 fine	Revocation	
Video unavailable, cameras not working, or 40 days video off-site storage copy unavailable	\$3,500 fine	\$5,000 fine	Revocation	
A person under the age of 21 in the licensed premises of a recreational marijuana business	\$3,500 fine	\$5,000 fine	Revocation	
Sale of MJ or MJ product to a person under 21 years of age	\$4,000 fine	\$5,000 fine	Revocation	

Except for blatant violations including but not limited to selling to minors, it is the practice of the city Marijuana Enforcement Team inspectors to work with a business to assist with compliance before referring a violation to the Marijuana Licensing Authority

When the city proposes revocation, on a case by case basis and balanced with the seriousness of the violations, repeated violations or lack thereof, the city may offer the licensee a one-time opportunity to sell the business to an already approved Boulder licensee with a good enforcement history and prior approved background checks. This will not be offered to a licensed business more than one time.

Mitigating factors include:

- The violation is a first offense with a single count
- the MJ business contacts the city with a plan for future compliance so that the business will not have future violations.

Aggravating factors include:

- multiple counts or a repeat offense
- the violation occurs after the legal requirement has been explained to the licensee
- the licensee does not contact the city to present a plan for future compliance to avoid repeat violations.

2. Chart of Classification for Modifications.

The following chart is adopted as the classification of different type of work that is exempt from the requirement to file a modification application, and work that qualifies as a minor or major modification. A modification shall be considered a Major Modification unless it fits into one of the other categories on this chart.

STANDARD (NON-EMERGENCY) RULE

Permanent Modifications Chart for Marijuana Businesses-
Stores and Grows August 3, 2016

<p>Non-Modification (inspection at renewal) No Fee</p>	<p>Minor Modification (once application filed, and required building permits are approved, may proceed on modification with inspection later scheduled)</p> <p>Application, Fee, and 1 Dept. Inspection</p> <p>Fee \$250</p>	<p>Major Modification (must be fully approved before modification can be fully utilized)</p> <p>Application, Fee and 4 Dept. Inspections</p> <p>Fee \$1,100</p>
<p>Installation of a Light fixture with existing source of power</p> <p>Upgrading existing equipment that does not require adding outlets, service upgrades or a new electric panel or subpanel</p> <p>camera cleaning and adjustments to maintain view of areas as required in security plan</p> <p>Painting and cleaning</p> <p>Regular maintenance of systems (HVAC, irrigation), such as cleaning and replacing filters</p> <p>Repair or replacement of equipment with same model not requiring building permit and not part of operational plan</p> <p>Moving furniture not associated with MJ sale/service/storage</p> <p>Carpet and tile replacement</p>	<p>Camera Addition, Removal or change of areas monitored and any change to the security system that does not require a change to the security plan</p> <p>Adding or removing a safe</p> <p>Adding, modifying or removing POS within room shown on floor plan</p> <p>Adding an outlet or other change to the electric system that does not require a service upgrade or a new panel or subpanel</p> <p>Grow Trays- adding additional square footage or moving location</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan and not within a MIP,</p> <p>Change of Room Designation with no structural changes</p> <p>Window replacement</p>	<p>Change to square footage, operating plan, floor plan or security plan</p> <p>Structural changes- walls, windows etc.</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>Changes to the plumbing system that require changes to mold mitigation plan or wastewater plan</p> <p>Change to Room Designation with structural change</p> <p>Material change to sale, storage, or preparation of MJ</p>

STANDARD (NON-EMERGENCY) RULE

Permanent Modifications Chart for Marijuana Businesses- Marijuana Infused Product Locations August 3, 2016

The fee for Grows and Retail apply to MIPs except for the following:

<p>Minor Modification (once application filed, and required building permits are approved, may proceed on modification with inspection later scheduled)</p> <p>Application, Fee, Building IH confirm, and 1 Dept. Inspection Fee \$500</p>	<p>Major Modification (must be fully approved before modification can be utilized)</p> <p>Application, Fee, Building IH full review, and 4 Dept. Inspections</p> <p>Fee \$1,500</p>
<p>Equipment change as the only change to IH plan</p> <p>SOP change that does not require review by industrial hygienist</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan or industrial hygienist plan</p>	<p>New, replacement or change of equipment or any change to process certified by industrial hygienist</p> <p>Any change to process certified by industrial hygienist</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>New or change to equipment (HVAC, irrigation) with effect on operation plan, floor plan or security plan or industrial hygienist plan</p> <p>A change to any equipment or system with flammable refinement</p>

3. Examples of “Incidental to Sponsorship”

The following chart is adopted to provide examples of items that do or do not qualify as “incidental to sponsorship” as the term is defined in Sections 6-14-2 and 6-16-2. In the event an advertisement is not clearly incidental to sponsorship, it shall not be considered incidental to sponsorship.

Incidental to Sponsorship of a Charitable Event	Advertising that is not Permitted as Incidental to Sponsorship of a Charitable Event
<p>Donation of any amount of money to the event</p>	
<p>Business name and/or logo can be included in any of the following when other sponsors are similarly listed and the item is prepared by the event organizer: Print or internet advertisement for the event, event posters, event t-shirts, programs for the event, signs at the location of the event, banners, film frames displaying all sponsors at a film festival</p>	<p>No advertising, including without limitation slogan, quote, street or website address is not incidental to sponsorship and cannot be included on any of the following unless otherwise specifically allowed by a Marijuana Code of the City: booths at the event or elsewhere, any advertising prepared by a person other than the event organizer, flags, television or radic announcement of the event with inclusion of the marijuana businesses differently than all other sponsors of the event.</p>
	<p>Distribution of any materials containing advertising of a marijuana business, including without limitation flyers, advertisements, coupons, t-shirts or any other tangible or intangible material at an event</p>

STANDARD (NON-EMERGENCY) RULE

4. Examples of Educational Materials.

The following chart is adopted to give examples of what qualifies as educational, promotional and company materials, and what does not so qualify. Any writing or tangible object that does not qualify as a particular type of material is not that type of material.

<p>Educational Materials</p> <p>Writings that meet all of the following are considered educational materials</p> <ul style="list-style-type: none"> • Prepared by a governmental or non-profit entity • Designed to provide facts, warnings or other health and safety-related information about consumption of marijuana and marijuana-infused products 	<p>Non-Educational Materials</p> <p>The following writings are not educational materials:</p> <ul style="list-style-type: none"> • Containing arguments for or against the legalization of marijuana • Containing arguments for change to state or local laws; • Encourage the use of marijuana • Any writing that includes the name or logo of a marijuana business • Company material • Promotional Items
<p>Promotional Materials</p> <ul style="list-style-type: none"> • Any writing or object that contains the name and logo of a marijuana business 	<p>Non-Promotional Materials</p> <ul style="list-style-type: none"> • Educational materials
<ul style="list-style-type: none"> • Any writing or tangible object that can be used to expose the name or logo of the business to third parties 	<ul style="list-style-type: none"> • A work uniform worn inside the business
<p>Company materials</p> <p>Any information printed or transmitted electronically that</p> <ul style="list-style-type: none"> • includes the name and logo of a particular marijuana business • includes promotes a particular marijuana business • describes marijuana or marijuana-infused product distributed by a particular marijuana business • promotes a particular marijuana business to potential employees over the age of 21 • potential investors • instructions of use of marijuana or marijuana-infused product distributed by the business 	<p>Non-Company Materials</p> <ul style="list-style-type: none"> • Educational materials

5. Access of Restricted Areas as visitor or tourist

Subsections 6-14-8(b)(2) and 6-16-8(b)(2) describe visitors that may access a restricted area of a marijuana business for educational purposes that do not allow tourists. This rule is intended to provide examples of who may qualify and who may not. The term "educational purposes" is intended to be broad for the purposes of these sections and to include potential employees or investors, parents or other familiar members of employees that desire to see where their family member is working, legislators, business entrepreneurs intending to develop products for the marijuana business. The sections are intended to prohibit those that (a) are seeking access to restricted areas of marijuana businesses without any connection to the business, (b) are curious about marijuana businesses, (c) are looking for tourist stop on a vacation, (d) pay any person for access to the restricted area. Log required for

STANDARD (NON-EMERGENCY) RULE

registration of visitors shall include the reason for its allowance of any person, other than an employee, within a restricted area.

6. Pre-Orders for Immature Plants

The pre-orders allowed by Subsections 6-14-8(w) and 6-16-8(w) for immature plants may include the following:

- The deposit required with pre-orders may be up to the retail amount of the immature plant;
- That the pre-payment is non-refundable; and
- The immature plant transferred to the center may be destroyed if not purchased by the requesting customer.

Although the plant will be subject to excise tax, the retail sale of the immature plant is not a taxable event for sales tax until the immature plant is purchased by the customer.

Rule 6-14.A.17

STANDARD (NON-EMERGENCY) RULE

Rules 1 through 6 Regarding Medical and Recreational Marijuana Businesses

- A. This Rule incorporates the guidance, requirements, rules and regulations shown in Attachment A.
- B. The attached rules 1 through 6 apply to Title 6, Chapter 14, "Medical Marijuana," and Chapter 16, "Recreational Marijuana," B.R.C. 198.
- C. To the extent only of any conflict, this rule supersedes any conflicting rules or parts of rules.

Legal Authority: Title 1, Chapter 4, and Sections 6-14-16 and 6-16-16, B.R.C. 1981

Approved as to form and legality for adoption on 3-14-17 (date).

Karim El Waddah (signature), (Assistant/Deputy) City Attorney.

Approved before publication by City Manager or delegate on March 17, 2017 (date).

Jane S Brautigam (signature), City Manager (title),

Adopting Authority.

Three copies of the rule filed with City Clerk on 3/21/2017 (date).

Notice publication date (15-day comment period) in the Daily Camera:

3/23/2017 (date).

Rule approved and adopted ~~with~~ without change after considering public comment by City

Manager or delegate on April 10, 2017 (date)

Jane S Brautigam (signature), City Manager (title),

Adopting Authority.

Adopted rule re-filed with City Clerk and effective on 4/11/2017 (date)

STANDARD (NON-EMERGENCY) REGULATION/RULE

Rule 6-16-6.A.19

[do not remove space – for Clerk label]

Medical and Recreational Marijuana Licensing Mitigation and Aggravating Factors
for Violations and Penalty Schedule Guidelines

Sections that are the subject of this Rule: 6-14-14 and 6-16-14, B.R.C. 1981

correct

1. This Rule incorporates the guidance, requirements, rules and regulations shown in **Attachment A**.
2. To the extent only of any conflict, this Rule supersedes any conflicting Rules or parts of Rules, including, without limitation, Rule 6-14.A.17.

*** NOTICE TO THE PUBLIC ***

Rule 6-16-6. A.19

As adopting authority, on October 1, 2019 the City Manager filed with the City Clerk a Rule proposing to:

Establish Marijuana Penalty Schedule for City of Boulder Medical and Recreational Marijuana Business Licenses

Copies of the Rule are available for public review at the Central Records Office at the Municipal Building, 1777 Broadway, 2nd floor.

The public has a right to submit written comments on the proposed rule for 15 days from the date of this publication. Please direct written comments to:

Mishawn Cook
Licensing Manager
1136 Alpine Avenue, Boulder, CO 80304
CookM@bouldercolorado.gov

For more information, visit <https://bouldercolorado.gov/tax-license> or call 303-441-4192.

If no written comments are received, the Rule will become final when the time for comments has passed.

STANDARD (NON-EMERGENCY) RULE SIGNATURE PAGE

Medical and Recreational Marijuana Licensing Mitigation and Aggravating Factors for Violations and Penalty Schedule Guidelines

Originating Department – Sections Granting Rulemaking Authority:

Sections 6-14-6 and ~~6-16-6~~, B.R.C. 1981

not correct : Sections 6-14-14 and 6-16-14

City Attorney’s Office – Approval as to form and legality:

The proposed Rule was approved as to form and legality for adoption on

9/30/19 (date).

Signature: [Handwritten Signature]

City Manager / Adopting Authority – Approval as to substance

The proposed Rule was approved as to substance prior to publication and three copies were filed with the City Clerk on October 1, 2019 (date).

Adopting Authority Signature: [Handwritten Signature]

City Clerk Publication:

The public notice will be published in the Daily Camera on ~~Oct 03, 2019~~ Oct 08, 2019 (date), starting a 15-day written comment period ending on ~~Oct 18, 2019~~ Oct 23, 2019

[X] No comments were received. The proposed Rule is in effect as of the end of the comment period.

Republished b/c section of code was incorrect and this changed the Rule # from Rule 6-16-6.A.19 to Rule 6-16-14.A.19

City Clerk Signature: [Handwritten Signature]

City Manager / Adopting Authority - Comment Review/Effective Date:

[X] Written comments were received for this Rule, and no change has been made. The Rule is in effect as of the end of the comment period.

[] Written comments were received for this Rule. The Rule was amended and returned to the City Attorney’s Office for review on _____. The Rule is effective upon approval of the City Attorney.

City Attorney approval Date: _____

Signature: _____

[] Written comments were received for this Rule. The Rule has been amended and will be republished.

Adopting Authority Signature: _____

ATTACHMENT A

MITIGATING AND AGGRAVATING FACTORS FOR VIOLATIONS AND PENALTY SCHEDULE GUIDELINES

This chart includes the most frequently occurring violations, but it is not an all-inclusive list of all possible violations of the City's Marijuana Codes. The Authority¹ MAY, in its discretion, consider the following mitigating and aggravating factor evidence in imposing penalties. **WRITTEN MITIGATING FACTOR EVIDENCE NEEDS TO BE SUBMITTED TO THE CITY LICENSING OFFICE NO LATER THAN 14 DAYS AFTER THE DATE OF THE VIOLATION.**

Mitigating Factors	Aggravating Factors
Training programs- initial and on-going. Responsible vendor training and supplemental. Must be current.	Failure to submit Mitigating Factor evidence no later than 14 days after the violation date
Written policies	Prior Offenses in the past five (5) Years
Supervision procedures	Violation occurs outside of compliance checks (aka "Stings")
Self-check programs	Lack of effective operational/training programs
Use of birth-date input cash registers	Multiple police contacts
Community involvement	Failure to cooperate with marijuana enforcement representatives
Responsible advertising practices	Irresponsible advertising policies
The problem that led to the violation was outside of Licensee's control	A general pattern of negligence on the part of Licensee
Active Responsible Association of Retailers (RAR) membership (4 out of 6 yearly meetings attendance)	Failure to accept responsibility for violation
Other pertinent facts, including but not limited to, that the violation is a first offense with a single count	Other pertinent facts, including but not limited to, multiple counts or if the violation is a repeat offense or that violation occurs after legal requirement was explained to Licensee

These suspension penalties are guidelines only and are not binding on the Authority. The Authority reserves the right to impose any penalty authorized by law, up to and including license revocation, transfer denial, or non-renewal.

Suspension dates are selected by the Authority, but generally start on a Monday that is 10 days after penalty assessment date.

Also, fines in lieu of suspension days served for retail, testing or manufacturing facilities are accepted at discretion of the Authority. The Authority is not required to offer fines in lieu of suspension.

Note: Violations for which the penalty is completed more than five years before the date of the violation are not considered in determining a penalty. Violations that occurred prior to a 100% arms-length third party transfer approved by the City pursuant to 6-14-3(e)(3)(B) or 6-16-3(e)(3)(B), BRC are not considered in determining a penalty.

¹ - Authority, as used in this Rule, refers to the City Manager as defined in BRC Sections 6-14-2 *Medical marijuana local licensing authority* and 6-16-2 *Recreational marijuana local licensing authority*.

EGREGIOUS COMMUNITY VIOLATIONS				
Code Violation	Dispensary/ Sales	Grow	MIP	Testing
<u>Described Violations</u> 1) Making sales of marijuana or a marijuana product to a person under 21 years of age in a recreational marijuana businesses, or under 18 years of age without a guardian in a medical marijuana business. 2) Allowing a person under the age of 21 in the restricted area of a recreational marijuana business or under the age of 18 without a guardian in the restricted access area of a medical marijuana business. 3) Not making disposed-of marijuana unusable and unrecognizable, or within licensee's control, not locking disposal dumpsters. 4) Using unapproved locking storage that does not qualify as a safe or not locking finished product or cash in a safe for overnight storage 5) Permitting marijuana or a marijuana product to be outside of a licensed premise except for sales and transports. 6) Making a permanent modification of the licensed premises without prior city approval. 7) Permitting consumption of marijuana on-premises (customers, patients, employees, managers, or owners). 8) Refusing to allow city inspections or access to the premises, or refusing to provide city records. 9) Failing to have a licensee or keyholder on the premises and responsible for all activities within the premises during all times the business is open or in the possession of another person. 10) Ownership changes without disclosure to the city 11) Advertising that appeals to minors or is at a physical location that does not qualify as an Adult Event. <u>Egregious Guideline Penalty</u>				
1 Count (suspended/abeyance for 1 yr)	5/9	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance
2 Counts (suspended/abeyance for 1 yr)	10/20	10 day fine w. 20 day held in abeyance	10 day fine w. 20 day held in abeyance	10 day fine w. 20 day held in abeyance
3+ Counts (suspended/abeyance for 1 yr)	15/30	15 day fine w. 30 day held in abeyance	15 day fine w. 30 day held in abeyance	15 day fine w. 30 day held in abeyance
2 nd Offense in 1 yr (suspended/abeyance 1 yr)	10/9	10 day fine w. 9 day held in abeyance	10 day fine w. 9 day held in abeyance	10 day fine w. 9 day held in abeyance

LICENSED OPERATIONAL VIOLATIONS				
Code Violation	Dispensary/Sales	Grow	MIP	Testing
<p><u>Described Violation</u></p> <p>1) For Medical Marijuana wellness centers only, not having a private consultation room or not offering other holistic offerings</p> <p>2) Secure dispensing area not locked or restricted licensed location unlocked</p> <p>3) MJ product transport details not completed, not emailed to BPD or resulting email bounce back not printed for product transport</p> <p>4) Processing of MJ in violation of the Code (e.g. at store, at a grow or illegal processing at a MIP or Testing)</p> <p>5) Failure to abide by neighborhood responsibility plan</p> <p>6) Failure to address odor violations</p> <p>7) Failure to operate business in compliance with the license or its operating plan or security plan</p> <p>8) ID scanner not utilized and/or failure to properly verify ID for determination of age</p> <p>9) Refusing to remove keyholder from management when city approval not obtained</p> <p>10) Failure to obstruct view of MJ sales or storage from public view</p> <p>11) Unapproved goods sold at licensed premises</p> <p>12) Unsealed MJ possession by employees at licensed premise or acceptance of free samples by employees without payment of retail value city tax</p> <p>13) MJ product or plants not properly packaged for removal/transport or MIP products not properly labeled</p> <p>14) Video unavailable, cameras not working, or 40 days video off-site storage copy unavailable</p> <p>15) Failure to timely provide financial records to assess fine or to timely pay assessed fine in certified funds</p> <p>16) Failure to post premises during active suspension</p> <p>17) Failure to pay taxes or fees due to the city or other governmental entity.</p> <p>18) Advertising that is not permitted in City Code and not described as egregious above.</p> <p><u>Operational Guideline Penalty</u></p>				
1 Count (set fine)	\$1,000	\$1,000	\$1,000	\$1,000
2 Counts (set fine)	\$2,500	\$2,500	\$2,500	\$2,500
3 Counts (set fine)	\$3,000	\$3,000	\$3,000	\$3,000
4 + Counts (<u>suspended</u> /abeyance for 1 yr)	5/9	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance
2 nd Offense in 1 yr (set fine)	\$3,000	\$3,000	\$3,000	\$3,000

These charts are not intended to be a complete list of all circumstances that are a violation of the requirements of the B.R.C., but a guideline of the most common violations for the Authority.

Fines will be calculated based on the gross revenue for the prior three full months (90 days) of METRC reports, sales reports, transport manifests and/or tax filing as requested by the City, with a summary of such 90 days activity and a suggested daily business average calculated and provided by the Licensee. This information, along with the business's calculation of the daily fine, shall be provided to the City's Licensing office within ten days of the assessment for verification by the City. The City will create a verified daily business average. The formula will be the verified daily business average multiplied by 20% of the verified daily business average, to then be multiplied by the number of days fine in lieu to be assessed.

Daily fine = Verified 90-day average daily gross revenue + 20% x number of days of suspension.

Fines will be paid in certified funds within seven days of verification of the assessed amount by the City. For days of active suspension, posting of a conspicuous and publicly readable suspension poster (such as on the front door glass or window glass) by the Licensee to be supplied by City Licensing is required. Failure to timely provide requested records for fine calculation or to failure to timely pay fines in certified funds will require service of suspended days rather than payment of a fine in lieu. Failure to post during active suspension days is considered a separate offense and will result in a separate Licensed Operational Violation being assessed.

In determining whether or not a second or subsequent violation occurred within a one-year period for abeyance suspension days or abeyance fine days, the Authority will use the date of conviction for the first violation (the date that the first penalty becomes final without appeal or the date of the appeal hearing where the Authority determines a conviction) to the actual date of the second violation. For example, if a Licensee was "convicted" of their first violation occurring in January at a March 1, 2001 hearing and had ten days held in abeyance for one year and then they were cited on February 1, 2002, that would be considered a second violation within a year. The Licensee would automatically have to serve the ten days held in abeyance from the first violation, plus their new suspension days determined by the Authority. If however, the Licensee were cited on March 9, 2002, then it would not be considered a second violation within a year.



20190926-5904

OFFICE OF THE CITY ATTORNEY

SEP 27 2019

TO: _____

STANDARD

Contract Routing Cover Sheet

Please print and attach to your document

You can view the status of your contract using the [Contract Tracking Status Page](#).

Routing Number	20190926-5904		
Originating Dept	Finance		
Contact Person	Mishawn J Cook	Phone Number	303-441-3010
Project Manager / Contract Administrator	Mishawn Cook	E-mail	cookm@boulder.colorado.gov
Counter Parties	N/A		
Contract Title / Type	City Manager Rule		
Number			
Description	This is an update the an existing city manager rule to update the Marijuana Penalty Guidelines in accordance with the version reviewed by the Marijuana Advisory Panel and supplied to City Council		
Special Instructions	Please email a complete copy back to Mishawn when complete. Thank you		
Amount		Expense Type	OUTGOING

Mia Shuler
Dept. Head Signature

NOTE: Originating Department: Identify with check mark all areas document needs to be routed.

- Purchasing _____
- Budget _____
- Sales Tax _____
- CAO _____
- City Manager _____
- Central Records _____

[Contract Tracking Home](#) | [Signature Routing Form](#) | [Track Contract Status](#) | [Update Contract Status](#)

~~Rule~~
6-16-6.A.19
*talked w/ Mishawn cook about ~~Rule~~ Sections

Rule # changed to 6-16-14.A.19

Republished: on Oct 8 2019 *thz*

Part 8-

Marijuana Advisory Panel (MAP) Historical Materials

August 23, 2016- Study Session to Council of MAP Suggestions

December 6, 2016- Council Memo and attachments of MAP changes

October 16, 2017- MAP Meeting Agenda and Packet

December 18, 2017- MAP letter to City Council for Retreat added items

March 20, 2018- Council Memo for MAP Summary and recommendations

October 24, 2018- MAP Meeting Agenda and Packet and City Council direction

August 6, 2019- Creation of CLAB by City Council as recommended by MAP

**Boulder City Council
STUDY SESSION**

**Tuesday
August 23, 2016
6-9 p.m.**

**Marijuana Advisory Panel
Analysis of Potential Changes to City of Boulder's
Marijuana Code Provisions**

**Council Chambers
Municipal Building
1777 Broadway**

Submit Written Comments to City Council, ATTN: Lynnette Beck, City Clerk, 1777 Broadway, P.O. Box 791, Boulder, CO 80306 or Fax to 303-441-4478 or E-mail: council@bouldercolorado.gov

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. – 5 p.m. Monday through Friday; two business days notification prior to the meeting is required for special packets. The Council Chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado 711 (711 or 800-659-3656).

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.



**CITY OF BOULDER
CITY COUNCIL STUDY SESSION MEMO**

MEETING DATE: August 23, 2016

This study session will provide a report on the Marijuana Advisory Panel's analysis of potential changes to City of Boulder's Marijuana Code Provisions.

PRESENTERS

City Staff:

Jane S. Brautigam, City Manager
Thomas Carr, City Attorney
Sandra M. Llanes, Senior Assistant City Attorney
Kathleen E. Haddock, Senior Assistant City Attorney
Mishawn Cook, Licensing and Collections Manager
Beverley Bookout, Boulder Police Officer, Marijuana Enforcement Division

Facilitator

Heather Bergman, Peak Facilitation Group

Panel Members

Andrea Meneghel, Boulder Chamber of Commerce
Heath Harmon, Boulder County Public Health
Kate Thomson, Skinny Pineapple, Inc.

I. PURPOSE

This study session will provide council with an opportunity to consider recommendations made by the Marijuana Advisory Panel (MAP).

II. BACKGROUND

The State of Colorado legalized medical marijuana with the adoption of Amendment 20 in November 2000. Prior to 2008, growing and providing medical marijuana was not a business, instead it involved caretakers providing medical marijuana for their patients that were approved by the state. In 2008, the U.S. Attorney issued a memo (commonly referred to as the "Cole memo") which led to explosive expansion of medical marijuana by the opening of marijuana businesses providing marijuana on a much larger scale.

Even before the state acted, the City of Boulder adopted interim regulations regarding medical marijuana in November 2009 and its first medical marijuana code on May 18, 2010. The city's medical marijuana regulations have been amended six times: February 1, 2011; September 20, 2011; November 1, 2012; November 12, 2013; June 3, 2014; and December 16, 2014. After the state adopted Amendment 64 in 2012 legalizing recreational marijuana, the city adopted regulations related to recreational marijuana on November 12, 2013. It has been amended twice on June 3, 2014 and December 16, 2014.

When the city council began its initial regulation of marijuana businesses in 2009, it faced a virtually unregulated marketplace. In the past, updates to the city's marijuana codes have been presented regularly to council by city staff as state laws and regulations changed and gained experience in trying to enforce the codes. Later amendments have been on a more piecemeal basis from requests by the marijuana businesses. The formation of the Marijuana Advisory Panel was intended to avoid this piecemeal approach and take a more efficient comprehensive look at potential changes.

III. QUESTIONS FOR COUNCIL

1. Do you agree with the MAP's recommendations? If so, which MAP recommendations should staff draft an ordinance to implement?
2. Does council support the MAP's recommendation regarding future Panel work? If not, how does council wish to handle any future issues that may arise?
3. Are there any questions you would like answered by the MAP or staff regarding the materials presented today in connection with any future draft ordinance?

IV. EXECUTIVE SUMMARY (prepared by MAP)

Colorado voters approved recreational marijuana in 2012, and the first licensed businesses opened in early 2014. Since then, recreational and medical marijuana businesses in Boulder have generated nearly \$8.1 million in tax revenue—these monies have gone to the City's general fund, as well as help pay for parks and recreation, open space, education, youth prevention, and transportation. However, this work has carried an opportunity cost as well: Boulder's City Council and City staff have worked on a number of labor-intensive revisions to Boulder's medical and recreational marijuana business codes in collaboration with industry.

At the direction of Boulder's City Council, a 12-member Marijuana Advisory Panel (MAP) was formed in January 2016 to take a comprehensive review of the existing city code related to marijuana regulation, and to make recommendations related to any potential changes to topics related to advertising, public health impacts, licensing, zoning, and more. Council approved a Charter (*see Attachment A*) that provided the MAP with direction to analyze both State regulations and Boulder's code in order to understand regulatory intent and impact, to solicit public input, and to discuss possible changes to the

code—all while preserving and promoting Boulder’s unique community values (*see Attachment B* for the composition of MAP.)

The MAP undertook the task to better assess the impact of Boulder’s code on public health, safety, and the competitiveness of the Boulder-based marijuana industry. In the course of its work, the Panel also reviewed differences between City and State regulations, and the interconnectedness between business operations, enforcement, and youth education.

The MAP actively included the perspectives of a cross-section of community representatives and leaders, such as the Boulder Chamber, Boulder County Public Health, Boulder Valley School District, the State of Colorado’s Marijuana Enforcement Division, the University of Colorado, as well as patient advocates, legal experts, independent small business owners, and community members.

MAP Meeting Process

At each of MAP’s 11 public meetings, public participation helped inform and improve the panelists’ understanding of the complexities surrounding the City of Boulder’s local ordinance and congruence with state regulations, impacts upon the community and local businesses within the marijuana industry. All meetings were publicly noticed and all meeting agendas, materials, and minutes were posted to the city’s [website](#). Additionally, MAP developed several subcommittees representing the diverse interests on the Panel; these subcommittees worked between meetings to increase their shared understanding of issues and bring proposals to the rest of the Panel for consideration.

Consensus Through Rigorous Discussion

MAP held substantive discussions on dozens of topics, which were addressed through a balance of perspectives that considered the community’s goals to protect community health and the safety of Boulder’s youth, to support economic vitality, and to seek clarity and regulatory consistency between local ordinances and State regulations. Each discussion on current regulations began with a presentation from Staff—and generally included participation from the Police and Fire Departments, the State Marijuana Enforcement Division, and others—on the intent and scope of existing language in the ordinance. These discussions led to consensus-based decisions and recommendations, and incorporated the professional expertise and personal views from stakeholders and public commenters.

Key Recommendations

By consensus, MAP has prepared more than three dozen recommendations for Council’s consideration according to the following areas: Advertising, Business Operations, ID Scanner Requirements, Licenses, Merchandise, Sales, and Zoning. A full list of the Panel’s recommendations is included. *See Attachment C.*

1. Advertising: MAP recommends specific updates and clarifications to the code in the areas of discounts and coupons, informational/educational materials, sponsorships and events, and terminology.

2. Business Operations: MAP recommends expansion to the hours of operation and changes to background checks and waiting periods, as well as terminology.
3. Licensing: MAP recommends updates and amendments to the City Code on license transfers, penalty schedules, and transfer of products and plants between licensed facilities.
4. Merchandise: MAP recommends aligning with the State on regulations related to branded and unbranded merchandise.
5. Zoning: MAP recommends upholding density restrictions for dispensaries. The Panel also recommends making adjustments to caps on licenses for marijuana businesses, permanent modifications, square footage limits, and virtual separation.

Potential Future Items for Action

Marijuana Social Use Clubs - The idea of social use clubs has been widely discussed but rarely implemented. The concept of a marijuana social use club is to provide a location where people can consume marijuana in a social environment. The MAP formed a subcommittee to address the idea of social clubs in Boulder. The subcommittee members all agreed that more information was needed before they could develop a proposal. The attached document outlines the pros and cons. It does not provide a position but rather indicates interest in exploring the issue further possibly in a future annual meeting. The MAP approved the document and agreed to provide it to council in this study session. *See Attachment D.*

Creative Ideas to Support Public Safety and Community Health – The Panel assembled a subcommittee to explore creative ideas to support public safety and community health. The MAP has acknowledged that although regulations can have an impact on public safety and community health, it is only one component of a larger approach. The Creative Ideas Subcommittee convened twice, to develop recommendations that could both support the recommended code revisions and the values of protecting public safety and community health. Ensuring that public safety and community health are maintained are part of an ongoing conversation. A full list of the recommendations are attached. *See Attachment E.*

Gratitude and Additional Considerations

MAP gratefully acknowledges the leadership of City Council and the City Manager for their thoughtful design of the Panel’s purpose and composition. We are indebted to the professional staff and law enforcement from the City of Boulder for their public service.

It is MAP’s view that one of its most important outcomes of these proceedings, has been an improved understanding and collaboration among stakeholders—including city licensing, the health community, industry, and law enforcement—which in turn enabled compromise among diverse perspectives. During the course of its work, the Panel also discussed and reached agreement on a number of process improvements in real-time that

together suggest an improved working relationship moving forward. Finally, MAP expresses the need for future check-ins to promote continual dialogue to review regulatory updates and address any community issues. (See **Attachment F** for MAP's recommendations for future work).

V. COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The council's original intent in imposing zone district and density restrictions, was to assure that a diversity of businesses were maintained in the city. It is unknown if removal of those limitations will lead to lack of diversity that could negatively impact sustainability as market changes occur.
- Environmental – There is a potential for an increase in electricity use if density changes are imposed.
- Social – Some of the recommendations of the committee allow for the existing culture of marijuana in Boulder to change by: (a) expanding hours of operation of businesses from closure at 7 p.m. to closure at 10 p.m.; (b) allowing sale of branded merchandise and allowing the sale of non-consumable merchandise, rather than limiting sales to marijuana and marijuana accessories and; (c) reducing the limitations on size, ownership, and density of marijuana businesses. It is unknown what if any, effects each of these changes will have to the existing culture in Boulder.

VI. OTHER IMPACTS

- Fiscal – An increase in the number of marijuana businesses will result in a need for increased staff to maintain current levels of inspection and enforcement. License fees are set to cover the cost of each license, so the increased funds should be collected to cover the costs of the increased staff. Staff annually evaluates fees to make sure that fees do cover the costs to prevent the need for additional funding. Having more marijuana businesses in the city, should result in collection of more of the additional excise and sales and use tax imposed on marijuana businesses and not other types of businesses.
- Staff time – Additional staff resources will be required if some of the recommendations are implemented that increase the difficulty of auditing marijuana businesses or increase the number or size of marijuana businesses that may open in the city. Suggested amendments changing business operations and timelines are covered in the normal work plan. It is unknown if implementing the recommendations allowing marijuana to sell any other non-consumable merchandise or increased advertising will change requirements for staff time.

VII. PUBLIC FEEDBACK

Many of the public comments were from employees from marijuana businesses and those paid by the marijuana industry in support of removing restrictions on marijuana businesses. The exception was a group of neighbors that expressed concern if the hours of operation went beyond 7 p.m. because of the noise impact on their neighborhood located adjacent to a marijuana business.

VIII. ANALYSIS

The purpose of this study session, is for council to obtain information from the Marijuana Advisory Panel so council can determine what recommendations to pursue. Staff does not have any analysis at this time. However, staff was actively involved in the discussions with MAP as recommendations were formed and issues identified, which are reflected in the Chart of Panel Recommendations under the heading Staff Considerations. Staff will be at the study session to answer questions and will provide an analysis of any code changes requested by council when presenting those code changes in the form on an ordinance.

While a lot of the recommendations would not change the status quo, some could substantially result in substantial change. Direction from council regarding what changes are desired will facilitate staff being able to provide an analysis. If council directs that the land use changes should be brought to the Planning Board, staff can also provide an analysis of changes to Title 9 for Planning Board and Council.

IX. MATRIX OF OPTIONS

Upon direction by council of which recommendations to pursue to the Planning Board or as code changes, staff can provide a matrix of options for each recommendation.

ATTACHMENTS:

- ATTACHMENT A: Charter
- ATTACHMENT B: MAP Member List
- ATTACHMENT C: MAP Recommendations and Exhibits
- ATTACHMENT D: Social Use Club Grid
- ATTACHMENT E: Creative Ideas Subcommittee Recommendations
- ATTACHMENT F: Future Engagement Recommendations

**CREATION OF A CHARTER FOR A MARIJUANA ADVISORY PANEL FOR
ANALYSIS OF, SOLICITATION OF PUBLIC INPUT ON
AND DISCUSSION OF POSSIBLE CHANGES TO CITY OF BOULDER
MARIJUANA CODE PROVISIONS**

This is a Charter for a committee for analysis of, solicitation of public input on and discussion of possible changes to the City of Boulder code provisions.

1. The committee shall be appointed by the City manager with the advice and consent of the city council to provide a balanced representation of the variety of interests related to medical and recreational marijuana.
2. The committee shall include, but not be limited to, the following members:
 - a. Representatives of marijuana consumers, including both recreational and medical users.
 - b. A representative of the Boulder Valley School District.
 - c. A representative of the University of Colorado.
 - d. Representatives to provide physical and mental health perspectives, including youth development theory and best practices in harm reduction/health promotion.
 - e. A representative of the Chamber of Commerce.
 - f. Representatives of marijuana businesses, sufficient to represent the interests of businesses engaged in businesses associated with medical marijuana, recreational marijuana, cultivation, retail sales and infused products manufacturing.
 - g. An attorney experienced in representing marijuana businesses.
 - h. A person familiar with state regulations, preferably a person from the state marijuana enforcement division, who, if unable to attend all meetings, may be an ex-officio member and not counted toward the limit on the number of members.
3. One person may represent multiple interests described above. The committee shall have no more than 11 members.
4. All meetings of the committee shall be held only after public notice of the date, time and place.
5. All meetings shall be open to the public. The committee shall allow time for public comment at each meeting.

6. The city manager and the city attorney are directed to provide staff support to facilitate the committee's work.

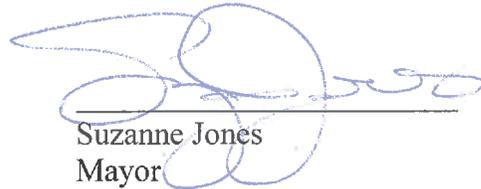
7. The city shall provide a professional facilitator to assist with the committee's work at the outset. The committee shall decide whether a facilitator is necessary at future meetings.

8. The committee shall provide regular updates to the city council about the committee's work. The committee is encouraged to prioritize time-sensitive issues and provide council with any appropriate recommendations on such matters during the first quarter of 2016.

9. The committee shall review both state regulations and city code to determine what specific city code provisions would be appropriate.

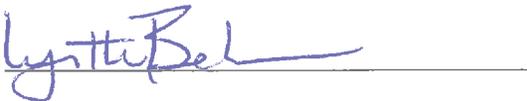
10. Council intends that the committee will complete its work by the end of June 2016.

APPROVED this 5 day of January, 2016.



Suzanne Jones
Mayor

ATTEST:



City Clerk

MARIJUANA ADVISORY PANEL MEMBERS LIST**Facilitator:** Heather Bergman

Name
Jan Cole, President Kate Thomson Skinny Pineapple Inc.
Leisha Conners-Bauer, Director Community Health Wardenburg Health Services University of Colorado at Boulder
Heath Harmon, Director of Health Divisions Boulder County Public Health Administration
Robert T. Hoban, Managing Partner Hoban & Feola, LLC
Travis Howard Health Services, LLC d/b/a Green Dream Cannabis
Lewis Koski, Deputy Senior Director, Enforcement Colorado Department of Revenue
Alana Malone, Founder and President Green Dot Labs
Andrea Meneghel, Public Affairs Director Boulder Chamber of Commerce
William Rigler, Director of University Relations Naropa University
Teri Robnett, Founder/Executive Director Cannabis Patients Alliance
Jane Theodore, Private Citizen
Andrew Tucker, Director of Student Support Boulder Valley School District

1	A	B	C	D	E	F	G
		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
2		General Advertising	<p>Limited ability for marijuana businesses to market their brand/logo for advertising purposes. Businesses want to be able to "brand" their name and logo through merchandise, signs, printed materials and other means. Research demonstrates the significant impact advertising (including some forms of coupons) and branded merchandise of substances plays on youth intent to use, initiation, and ongoing use. Therefore a balanced approach is necessary to avoid unintended consequences of increased use among youth.</p>	<p>May not advertise in a manner appealing to minors. 6-14-8(p) and 6-16-8(p): Prohibits advertising that is "misleading, deceptive, false, or designed to appeal to minors." Allows advertisement in newspaper, magazine, or other periodical of general circulation within the city or on the internet. No other advertising.</p>	<p>Changes to specific categories of advertising as noted below, but prohibited from advertising outside of the exceptions.</p>		<p>Need to define what is meant by "appealing to youth."</p>
3		Discounts/coupons	<p>Prohibits use of coupons and/or discounts (1) Includes coupons, free merchandise, swag (2) Businesses want to be able to have customer show affiliation (Bolder Boulder, veteran, birthday, etc.) in exchange for discount. Coupons that are distributed in a leaflet form or posted in public view serve as an advertisement that cannot meet the existing rules limiting advertisement where audiences are no more than 30% of viewers are minors.</p>	<p>Prohibits requiring a coupon (paper or e-copy) or exchange of anything to obtain the discount. Leafleting cars, handing out flyers, ads on vehicles, or handheld signs or sign spinners are not allowed. Stated in general, not just for coupons. Code cite same as above.</p>	<p>1) Exceptions: Allow coupons, but no leaflets/handbills; 2) Clarify definition of "exchange." Note: coupon ads in newspaper okay, but no exchange of paper. Note: businesses should keep a copy of coupon for business records; 3) Define handbill and leaflet.</p>		
4		Education	<p>Businesses want to be able to distribute instructions for use of products and educational materials with the business logo and other information particular to the business. Distribution of educational materials by businesses is encouraged. However, the materials should be developed by a public or non-profit organization and should not be branded with business logos, which would further serve as a form of advertising.</p>	<p>Does not limit the distribution or display of educational materials provided by marijuana business or other parties or instructions for use of product so long as it does not have a brand logo. Does prohibit anything that would be considered advertising, handbill or leaflet. Code cite same as above.</p>	<p>Allow businesses to distribute within the store or at approved events that occur outside store. ("approved event" = approved under city code) educational materials created and provided by public agencies or non-profit organizations without marijuana business branding.</p>		
5		Sponsorships/ Events	<p>Businesses want to participate as a sponsor by being able to have booths, signs and distribute written or tangible materials (swag) with their logo brand. Sponsorship is encouraged, but advertisement within sponsorship should be limited, especially in locations or at events where more than 30% of participants are minors or controlled access is not achievable.</p>	<p>Not currently allowed to participate in or host an event as a marijuana business. 6-14-8(p)(1)(D) and 6-16-8(p)(1)(D) - Advertising which is purely incidental to sponsorship of a charitable event is allowed (can be listed as event sponsor in print, posters and t-shirts as is any other sponsor when all sponsors listed; may not have individual recognition as sponsor by separate banner, booth, print materials) but may not separately advertise at non-profit events. No booth or flyers or separate banner.</p>	<p>1) Clarify definition of "incidental." 2) Allow participation in booths (not events) to distribute informational material. 3) Adopt state rule that no more than 30% of participants can be minors.</p>		

	A	B	C	D	E	F	G
1		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
6		Job Fairs	Unintended consequence Prohibition on advertising prevents distributing materials for employee recruitment at job fairs.	Restrictions in advertising/sponsorship do not permit booths or handouts. Code cite same as above.	Amend city code to allow for job fair exceptions: a) allow company-related materials and handouts at job fairs aimed at employees over 21 years of age; b) note that at least 70% of the audience at the job fair must be reasonably expected to be over 21 years of age. This applies to all job fairs; c) define "job fair and reasonably expected."		
7		Signs	Not allowed off-site	None off-site. A sign with the business name and business address only is allowed at the business location. 6-14-8(p)(1)(A) & 6-16-8(p)(1)(A) & 9-9-21 (sign code)	Panel did not seek change		
8		General Merchandise	Panel agreed to support sustainability of the marijuana industry by allowing sales of additional products while remaining protective of our advertising goals.	6-14-8(p)(1)(C) and 6-16-8(p)(1)(C): Allows any products with brand/logo of MJ center, including wearable and non-consumable merchandise, packaging in which marijuana is sold, or on recreational marijuana accessories sold. Doesn't allow products of other brands/logos other than marijuana business. No marijuana business shall sell, distribute, or provide, or allow the sale, distribution, or provision of, products marked with its name or logo, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors.	Allow sale of any non-consumable merchandise, including merchandise that is not marijuana or marijuana accessories, at medical or recreational marijuana retail facilities, whether or not the merchandise is branded.	Differs from laws limiting what liquor stores can sell.	
9		Merchandise	Businesses want to be able to sell merchandise other than marijuana and marijuana accessories. They also want to be able to sell non-branded and branded merchandise of other marijuana brands and not just their own brands.	6-16-8(p)(1)(C) - Permits sale of branded merchandise by license/store (i.e. but limited to only your store brand) Selling of wearable or non-consumable merchandise with the business name and logo on it, sale of MJ, and MJ accessories is allowed. No sale of products marked with its name or logo.	Align with state = can sell any merchandise except consumables. No free swag.	Same as above.	
10		Branded marijuana merchandise	same as above	Allows businesses to sell its own branded merchandise of the business, but not other marijuana businesses.	same as above.		
11		Unbranded marijuana merchandise	same as above	Sales of unbranded marijuana merchandise not allowed.	same as above.		
12		Merchandise unrelated to MJ	same as above	Does not allow sale of products others than marijuana and marijuana accessories (constitutional language).	same as above.	same as above.	
13		Zoning					
14		Sq. ft. limits	Square foot limitations on all types of MJ businesses (sales, grows, & MIPs).	6-16-7(g) - 3,000 sf retail 6-16-7(h) - 15,000 sf grow/MIP	There should be no limits on the square footage of cultivation facilities and MIPs.	Requires amendment to Title 9 and Planning Board approval.	Panel recommendation would require amendment to Title 9 and approval by Planning Board. Panel has not determined whether to pursue such action.

1	A	B	C	D	E	F	G
		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
15		Density	Businesses do not want a limit on the number of MJ businesses that can be in proximity to other MJ businesses, schools, day care and rehab facilities.	No more than 3 MJ businesses w/in 500 ft. of each other. 6-14-7(f)(3); 6-16-7(e)(3)	There should be no density restrictions on cultivation facilities and MIPS. This does not apply to stores.	Diversity of business type had been an important principle to city council. Sustainability negatively affected by lack of diversity of businesses.	This decision may be revisited if there are changes in density regulations.
16		Setbacks	Businesses were concerned that the setbacks from schools, day cares and rehab facilities for all marijuana businesses unnecessarily restricted the places marijuana businesses could locate.	Dispensaries not permitted within 1000 ft of a school, day care, or rehab facility. 6-14-7(f)(1); 6-16-7(e)(1) MIPS and grows may not be within 500 ft of such facilities 6-14-7(f)(2); 6-16-7(e)(2)	The setbacks from schools, day cares and rehab facilities should not apply to cultivation facilities or MIPS because those businesses do not have public access or outdoor signage or presence that provides exposure to minors.		
17		Limit on size of cultivation facilities.	Businesses want to be able to combine up to 5 grows of 15,000 sf each into any combination of ownerships so could have 1 grow with 75,000 sf or 2 grows of 37,500 sf each, etc.	6-16-7(b)(3)	The 5 grow licenses that 1 licensee is allowed to hold should be able to be combined into any combination of locations to a total of 75,000 sf.	Contrary to council principle to prevent monopoly in Boulder. Requires amendment to title 9 to change zoning to allow over 15,000 sf .	
18		Max # of dispensary/center licenses held by one MJ owner	Businesses want to be able to own more marijuana businesses in the city.	6-16-6(a)(9) - The same business owner cannot own more than one each of dispensary and center.	Allow for up to 3 addresses of dispensaries/centers per owner. This could be up to 6 separate licenses if each location was co located medical and recreational.		
19		Permanent modifications	Businesses request a clarification in regards to what qualifies as a permanent modification, as well as a tier system approach to minor and major modifications and fees.	Requires an application and approval for permanent modification for any change to the business documented floor plan or any other plan submitted with the license and made part of the application, or operation of the businesses. 4-20-64(h) and 67(9).	<i>See Exhibit 1 - Permanent Modification Chart</i>		
20		Virtual and physical separation	Businesses do not want a physical separation between medical and recreational in retail locations and cultivation facilities; want virtual separation.	Co-located medical and recreational retail centers must be physically not just virtually separated. 6-16-3(d).	Allow co-located retail and cultivation facilities to be virtually separated and eliminate physical separation requirement. Business will have to verify that they are maintaining separate books as provided in 6-16-9 for each license issued by the city.	City's objection is effect on ability to audit. Just discovered that businesses are co-mingling books which eliminates ability to audit and virtual separation will compound this.	Pat Brown, Revenue and Licensing Officer, will meet with Marijuana business financial people to clarify expectations of bookkeeping and auditing. City will provide a seminar on this in 30 days.
21		Sales					
22		Labeling of product	The state has now adopted labeling requirements which are staged to go into effect in July and Oct. 2016, so Boulder's provisions requested by patients will be no longer be necessary.	6-14-11(b)(3) - statement label conflicts with Rule 1004.5(b)(1)(j)(ii); live Oct. 2016 (3) 6-14-11(b)(2) - city is more specific on label where state is vague Rule 1004.5(b)(1)(k); live Oct. 2016	Align with State = remove city labeling requirements to coordinate timing when state requirements become effective.		
23		Sale of Clones	Marijuana businesses would like to be able to sell marijuana seeds and plants to customers.	Any germinated seed is a plant, and plants may not be stored or sold at medical/rec sales locations. 6-14-2 definition of "Medical Marijuana Plant" and 6-14-13(26) "Prohibited Acts"; 6-16-2 definition of "Recreational Marijuana Plant" and 6-16-13(24) Prohibited Acts.	Sale of clones is allowed. Pre-orders and same day pickup is required. Prepayments or deposits are allowed. Customers are allowed to purchase a max of 6 clone plants.		
24		Seeds	Confusion on interpretation issue resolved. Seeds are treated like flower for excise tax purposes at both city and state levels. Sales are based on weight allotments.		no change		

*MIPS (Marijuana Infused Products)

	A	B	C	D	E	F	G
1		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
25		<i>Business Operations</i>					
26		Term "business manager"	The use of the term "business manager" is creating an unintended consequence: the term is leading employees to demand higher pay because of the title of "business manager."	6-16-2 - individual designated by owner as the person responsible for all operations of the business in the absence of the owner.	Change all references in Boulder Code and applications from "business manager" to "keyholder."		
27		Background checks - (1) eliminating 30 day waiting period (2) background criteria.	(a) Employees must wait 30 days before he/she can serve as a keyholder (manager) while a background check is performed (b) Unintended consequence: for businesses, this either requires owners to be on-site when a keyholder leaves that business, or qualify more employees as keyholders in case any one of them leaves the business. Boulder's interest has been to make sure that unqualified employees were not in charge of the operation of a city licensee.	Requires 30 day waiting period, higher background check criteria requirements than the state, and an objective rather than subjective review.	For business managers: (1) Eliminate 30-day waiting period for business mgr background checks by submitting a copy of the State MED Key Badge with city's "keyholder" application; (2) Panel agreed to adopt staff's suggested changes to background criteria. Attached as Exhibit 2.		
28		Hours of operation	Current hours of operation cause two issues: (1) competitive disadvantage w/other Colorado dispensaries because they can stay open later; and (2) operationally, it only provides the ability for employees to do transport and METRC corrections during hours of operation, inhibits employees from doing all the supplemental work necessary to comply with METRC reporting and labor.	6-16-8(f) - medical marijuana sales allowed from 8am - 7pm. 6-16-8(f) - recreational marijuana sales allowed from 8am - 7pm. 6-16-8(m)(8) - transport only allowed during hours of operation. County: allows sales from 8am - 10pm. State: allows sales until midnight.	Extend hours of operation to 10:00 p.m. Include additional requirement related to effective mitigation planning on the existing required neighborhood responsibility plan. Staff amended the form and the panel approved the changes. It reads in part, "(c) Effective Mitigation Planning: Describe how the MJ business will effectively mitigate neighborhood impacts to surrounding residences and businesses, including but not limited to, noise, traffic, crowding, lights, public consumption related to their business." Also requires a change to code 6-14-5(6)(C) and 6-16-5(6)(C) to add "effective mitigation of community impacts."	Concern about the ability to enforce neighborhood responsibility plan and mitigate impacts to residential areas. Area of high number of complaints to city.	
29		Visitors	Ability to allow non-licensees to be in restricted area: the city code makes exceptions for contractors, but not for consultants or judges/juries to be in restricted area.	6-14-8 No person, other than a patient, licensee, employee, or a contractor, shall be in the restricted area.	Align with state code = no for-profit tours. No for-profit tours. Not allowed for tourism and include state code procedure (i.e., use of log books is required).		
30		Combined HVAC system and other systems where building code allows	Required to have separate ventilation in a co-located business; 2 HVACs where 1 stronger unit would be more efficient.	6-16-8(h) - ventilation required 6-16-8(r)(1) - separate ventilation required	Create a city code exception to allow for combined HVAC systems for co-located business.		
31		Maintaining back-up of surveillance tapes	Confusion by licensees clarified by staff. No need to change city code. State requires back-up for at least 40 days and city requires only 30 days.	6-16-10(a) - recordings maintained for a minimum 30 days.	Increase City requirement from 30 to 40 days.		
32		<i>Licenses</i>					
33		Transfer license to new owner	Prohibition of transfer/sale of license.	6-16-3(e) - Can sell stock/memberships but not entity.	Allow sales and transfers of inventory (with authorization by state), assets, and infrastructure that are portable to other locations; allow licenses to retain grandfathered provision, the license remains in the same physical location. Can sell business entity and transfer license for that location to new entity.	Needs to be able to conduct background checks before transfer. No other licensees transferable, except liquor that is governed by state law.	

1	A	B	C	D	E	F	G
		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
34		Transporting MJ product among MJ licensed businesses	(1) City code defines which MJ businesses MJ may be transferred to; (2) Not at issue for city since the state eliminated vertical integration, the limits on which licensed MJ business MJ is being transferred to and from is not an issue; (3) Issue: Boulder's enforcement issue is that city police be able to determine quickly whether the MJ in a vehicle is legal or not; the e-mail bounce back of the manifest is sufficient monitoring when MJ is being transported among licensed businesses.	6-16-8(m)(5) - MJ "must be accompanied by the manifest and confirmation email from the State of Colorado" 6-16-8(m)(6) - MJ "must be accompanied by the email receipt confirmation from the Boulder Police Dept."	Remove restrictions related to transfer of product or plants by: (1) Eliminating subsections of 6-14-8(m)(4) A-D; (2) Eliminating subsections of 6-16-8(m)(4) A-D. No change to requirement for city e-mail bounceback.		Note new Law: Transporter License: Jan. 1 allowed, must be licensed by July 1. This panel won't be able to address this b/c still need to go through rulemaking, etc. and the state may not even give the city the ability to regulate transporters.
35		Applications for MIP licenses to include locations of the grow supplying at least 70% of the marijuana.	MIPs no longer have to prove that 70% of product comes from their cultivation facilities.	6-16-5(a)(16)	Remove 6-16-5(a)(16) - not necessary since 70/30 rule was removed Nov. 2015.		
36		Posting for suspension periods	City Licensing has not imposed suspensions, but the municipal court has done so. For liquor licenses suspended, posting on the property is required during the suspension period. Likewise, MJ licenses should be required.	Not currently addressed in city code.	Add to city code requirement of posting during periods of suspension (similar to liquor licensing).		
37		Schedule of Penalty Guidelines	It is important for staff to have penalty guidelines in order to be consistent in penalty assessment. It is also beneficial to marijuana businesses so that they are aware of the potential penalty depending on the type of violations. There is perception that there is a list of subjectivity in enforcement.	Penalty Guidelines are not part of the Code. (They have always existed; they just are not part of the code for marijuana or any other penalty schedule).	Guidelines for Penalties. Attached as Exhibit 3 .		
38		Transfer of license location	Transfer of location requires new license application.	6-16-3(d) - New license required for new location.	No change.		
39		<i>IDs</i>					
40		Not all IDs can be read by scanners	Not all IDs can be scanned: Military IDs, passports and passport cards, tribal/Native American cards with all appropriate info, some US territory driver's licenses, and worn barcodes are not scannable and therefore impossible to comply with law.	6-16-8(b) requires all identification to be verified by using an electronic scanner.	(1) Add provisions to Boulder Code to recognize that some legitimate IDs cannot be scanned, but may be reasonably relied upon by the licensee. Language would read something to this extent - "If it can scan, you must scan. If not, visual confirmation is mandatory." (2) Make it mandatory for employee to take city ID check training or state responsible vendor training w/in 90 days of first day of work; applies to retail only, not MIPs or grows. Liquor licensees have 90 days to train new employees, and MJ license holders should have same amount of training time. (3) Create rule as to what classes are approved.		
41		ID scanners at grow/MIP	No need for scanners at MIPS or grows, but Code makes it mandatory to validate IDS with scanner.	6-16-8(v) - "marijuana business shall verify the proof of age" with a scanner.	Change 6-16-8(v) "marijuana business" to "recreational marijuana center" to clarify that scanners are not required at grows, MIPs, medical centers or testing facilities. If a recreational and medical center co-locate, a scanner is required.		

	A	B	C	D	E	F	G
1		Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
42		Confiscating fraudulent IDs	When a liquor licensee is shown a fraudulent ID, normal practice is to confiscate the ID and send to BPD. This avoids the minor from being able to use the same ID at another location and helps prevent minors from obtaining liquor or businesses from being charged for serving a minor. This same requirement should apply to MJ regs.	not currently addressed in city code	Add to the city codes the same requirements of liquor licensees to confiscate fraudulent IDs and turn them into BPD.		
43		Other misc topics					
44		Odor regulations	All marijuana businesses are subject to odor regulations and must have proper ventilation so that odor cannot be detected outside the premise. The most frequent community complaint about mj businesses is odor.	6-14-5(a)(12) and 6-14-8(h); 6-16-5(a)(12) and 6-16-8(h).	No change recommended.	Building department inspectors work with licensees to best handle their odor. Penalties are not often imposed because most businesses can be mentored into compliance. The odor regs have been successful because they have mitigated odor that impacts non-mj businesses and nearby residents.	

Permanent Modifications Chart for Marijuana Businesses

July 22, 2016

Stores and Grows

<p>Non-Modification (inspection at renewal) No Fee</p>	<p>Minor Modification Application, Fee, and 1 Dept. Inspection Fee \$250</p>	<p>Major Modification Application, Fee and 4 Dept. Inspections Fee \$1,100</p>
<p>Installation of a Light fixture with existing source of power</p> <p>Upgrading existing equipment that does not require adding outlets, service upgrades or a new electric panel or subpanel</p> <p>Camera cleaning and adjustments to maintain view of areas as required in security plan</p> <p>Painting and cleaning</p> <p>Regular maintenance of systems (HVAC, irrigation), such as cleaning and replacing filters</p> <p>Repair or replacement of equipment with same model not requiring building permit and not part of operational plan</p> <p>Moving furniture not associated with MJ sale/service/storage</p> <p>Carpet and tile replacement</p>	<p>Camera Addition, Removal or change of areas monitored and any change to the security system that does not require a change to the security plan</p> <p>Adding or removing a safe</p> <p>Adding, modifying or removing POS within room shown on floor plan</p> <p>Adding an outlet or other change to the electric system that does not require a service upgrade or a new panel or subpanel</p> <p>Grow Trays- adding additional square footage or moving location</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan and not within a MIP,</p> <p>Change of Room Designation with no structural changes</p> <p>Window replacement</p>	<p>Change to square footage, operating plan, floor plan or security plan</p> <p>Structural changes- walls, windows etc.</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>MIP - New, replacement or change of equipment or any change to process certified by industrial hygienist</p> <p>Changes to the plumbing system that require changes to the mold mitigation plan or wastewater plan</p> <p>Change to Room Designation with structural change</p> <p>Material change to sale, storage, or preparation of MJ</p>

Permanent Modifications Chart for Marijuana Businesses

Marijuana Infused Product Locations

July 22, 2016

The fee for Grows and Retail apply to MIPs except for the following:

<p>Minor Modification</p> <p>Application, Fee, Building IH confirm, and 1 Dept. Inspection</p> <p>Fee \$500</p>	<p>Major Modification</p> <p>Application, Fee, Building IH full review, and 4 Dept. Inspections</p> <p>Fee \$1,500</p>
<p>Equipment change as the only change to IH plan</p> <p>SOP change that does not require review by industrial hygienist</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan or industrial hygienist plan</p>	<p>New, replacement or change of equipment</p> <p>Any change to process certified by industrial hygienist</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan</p> <p>A change to any equipment or system with flammable refinement</p>

Chart of Current Background Check Considerations and Changes Proposed by Subcommittee

Criteria Issue	No approval	Considered for moral turpitude	Approved
Current: Moral Turpitude violations of law	X		
Proposed: Moral Turpitude violations of law are notable but are incorporated into the below convictions criteria		X	
Non-drug Felony offenses			
Current: Felony violations of laws in the last 5 years (non-drug offenses)	X		
Proposed: Felony violations of laws in the last 10 years (non-drug offenses)	X		
Drug Related Felony Offenses			
Current: Felony violations of law for any drugs at any time	X		
Proposed: Drug Felony violation of law in past 10 years (non-marijuana)	X		
Proposed: Drug Felony violation of law in past 10 years that are no longer illegal (marijuana)			X (unless part of compilation of matters considered for good moral character)
Pattern of Arrests			
Current: Pattern of 5 or more arrests in past 10 years	X		
Proposed: Pattern of 5 or more arrests in the past 5 years	X		
Pattern of Violations of Law			
Current: In review with evidence of rehabilitation, any 1 of the following conviction in last 5 years: i) MJ misdemeanor, ii) obstruction/interference/eluding, iii) 3 or more misdemeanor convictions	X		
Proposed: 5 or more misdemeanor violations of law in past 10 years	X		

Sub-committee proposal to replace 30 Day Wait – So long as a city application and fees has been submitted, and a copy of the state green badge is submitted with the city application, the applicant can work/manage during the first 30 day period and continue in Boulder until final city determination is made.

Travis Question to City Staff: What does Boulder City need to feel safe in its “subjective” review of documents? Answer: We recognize we cannot identify every individual violation that may affect good moral character. However, we want to have a checklist so we are as consistent as possible among persons who apply.

City of Boulder Draft Marijuana License Penalty Schedule Guidelines – August 16, 2016

The following is the Penalty Schedule that is used for guidance by the Boulder Marijuana Licensing Authority when proposing penalties. This schedule includes the most frequently occurring violations, but it is not an all-inclusive list of all possible violations of the Boulder Marijuana Codes.

Actual penalties may vary depending on a variety of factors such as mitigating or aggravating circumstances, efforts of business to correct the violation, or time between violations.

<u>Operational Infractions</u>	First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Unsealed MJ possession by employees at licensed premise or acceptance of samples by employees	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
MJ product or plants not properly packaged for removal/transport or MIP products not properly labeled	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Unapproved goods sold at licensed premise	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
ID scanner not utilized and/or failure to properly verify ID for determination of age	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Refusing to remove business manager from management when background is unapproved by city	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Failure to obstruct view of sales or storage of MJ	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation

<u>Impact on Community or Safety Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Illegal Advertising	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
For Medical Marijuana wellness centers only, not having a private consultation room or not offering other holistic offerings at licensed location	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
No approved business manager or owner on-site	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation

Uncooperative with PD with inspections or investigations or misrepresentation to regulators	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Refusal to allow city inspections or premise access	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Sale of LLC shares or corporate stock in Boulder business or adding officers/managing members without proper and complete 30-day pre-file with the city	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Secure dispensing area not locked or restricted licensed location unlocked	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
MJ product transport details not emailed to BPD and email bounce back not printed for transportation by licensee	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Processing of MJ in violation of the Code (e.g. at store, at a grow or illegal processing at a MIP)	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to abide by neighborhood responsibility plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to remedy odor complaints	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
On-premise consumption by customers	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to operate business in compliance with the license or its operating plan or security plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation

<u>Health, Safety, and Security Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Use of unapproved locking storage that does not qualify as a safe	\$2,500 fine	\$3,500 fine	\$5,000 fine	Revocation
Not making disposed of MJ unusable and unrecognizable and not locking disposal dumpsters	\$3,000 fine	\$4,000 fine	\$5,000 fine	Revocation
Not locking product or receipts in a safe for overnight storage	\$3,500 fine	\$5,000 fine	Revocation	

MJ or MJ product outside of a licensed premise	\$3,500 fine	\$5,000 fine	Revocation	
Making a permanent modification of the licensed premises without prior city approval	\$3,500 fine	\$5,000 fine	Revocation	
On-premise consumption by employees, managers or owners	\$3,500 fine	\$5,000 fine	Revocation	
Video unavailable, cameras not working or 40 days video off-site storage copy unavailable	\$3,500 fine	\$5,000 fine	Revocation	
A person under the age of 21 in the licensed premises of a recreational marijuana business	\$3,500 fine	\$5,000 fine	Revocation	
Sale of MJ or a MJ product to a person under 21 years of age	\$4,000 fine	\$5,000 fine	Revocation	

Except for blatant violations including but not limited to selling to minors, it is the practice of the Marijuana Enforcement Team inspectors to work with a business to assist with compliance before referring a violation to the Marijuana Licensing Authority.

When the city proposes revocation, on a case by case basis and balanced with the seriousness of the violations, repeated violations or lack thereof, the city may offer the licensee a one-time opportunity to sell the business to an already approved Boulder licensee with a good enforcement history and prior approved background checks. This will not be offered to a licensed business more than one time.

Mitigating factors include:

- The violation is a first offense with a single count
- The MJ business contacts the city with a plan for future compliance so that the business will not have future violations.

Aggravating factors include:

- Multiple counts or a repeat offense, ,
- The violation occurs after the legal requirement has been explained to the licensee
- The licensee does not contact the city to present a plan for future compliance to avoid repeat violations.

Social Use Club Strawman

What this document does:

- This document is intended to portray wide-ranging views on the pros and cons of establishing a “Social Use Club” for the consumption of marijuana inside Boulder city limits.

What this document does not do:

- This document intentionally does *not* take a position on whether a “Social Use Club” should be established.
- This document does not seek to define “Social Use Club,” or to otherwise set parameters on how such a club would be established or operated.

Issue Area	Pros	Cons and/or Concerns
General Thoughts	<ul style="list-style-type: none"> - Would provide a widely enjoyed and safe alternative to drinking alcohol - Reduces legal uncertainty surrounding consumption - Encourages responsible use, especially when combined with education efforts - This would enable treating marijuana like alcohol, which is consistent with desires of voters - By creating safe space, would reduce or minimize people consuming in public or in their vehicles - May lead to reduced consumption of edibles by consumers not familiar with their effects 	<ul style="list-style-type: none"> - Very little data on the efficacy of social use clubs - Needs more evaluation at the State level before Boulder should consider - There is a shared view that clubs should not be co-located with establishments that sell or distribute alcohol - Not clear how this would be rolled out - Want to better understand “consumption” for social use club: would this be for smoking, eating, vaping, etc. - Potential for unintended consequences if the clubs aren’t well thought out when created
Legal Transparency	<ul style="list-style-type: none"> - Club would answer the question for tourists and visitors about where to safely and responsibly 	<ul style="list-style-type: none"> - It might be more appropriate to wait for explicit guidance from the State (it’s expected

	consume	that legislation will be reintroduced at State level next year) - Should be explicit and transparent regulations akin to alcohol regulations
Effects on Tourism	- Creates safe space for tourists and residents to go - Enables clear and consistent policies for visitors who want to consume	- Could draw visitors who only want to consume, and are less interested in contributing meaningfully to Boulder
Boulder's Reputation	- If developed and implemented in meaningful and intention way, it would reinforce Boulder's image as a progressive city that is making data-driven decisions	- Could reinforce view that Boulder is out of touch
Impacts on Law Enforcement	- Social club could result in less public consumption	- Will create increased need for enforcement - May increase more instances of driving while impaired if not carefully thought out and implemented
Effects on Local Businesses	- Would have positive ripple effects on neighboring businesses, especially surrounding restaurants and shops - Could promote Boulder's role as model for others to follow - Might contribute to more people spending time and money downtown	- Would need to look closely at nuisance laws and impacts on surrounding businesses - Zoning might be an issue, especially if local businesses object
Health Concerns	- Provide	- This might not be allowed under Colorado Indoor Clean Air Act

Access by Youth	- If regulated like alcohol, club would restrict underage access	- Need to ensure steps taken on diversion and youth access
Education Efforts	<ul style="list-style-type: none"> - Could be a venue to help educate tourists - Hospitality groups could refer visitors to the Social Club for educational info 	<ul style="list-style-type: none"> - Need to make sure that the effects of smoking and edibles is made more robust - There would be benefits of creating a social use club, but it would need to be combined with a lot of education about health impacts
Air Quality		- Need to better understand the implications of Clean Indoor Air Act, and respiratory issues for employees
Membership		- Would this be a public club or private club? (this will have potential tax implications)

Recommendations to support public safety and community health

Marijuana Advisory Panel; Creative Ideas Subcommittee - Andy Tucker, Jane Theodore, Andrea Poniers, Kate Thompson, and Alana Malone

The Boulder Marijuana Advisory Panel has acknowledged that although regulations can have an impact on public safety and community health, it is only one component of a larger approach. The Creative Ideas subcommittee was convened two times to develop recommendations that could both support the recommended code revisions and the values of protecting public safety and community health.

The following are recommendations proposed by the Creative Ideas subcommittee and supported by the Marijuana Advisory Panel.

Education and Messaging

Amplify and support the state educational campaign, “Good to Know” utilizing the most effective channels to reach targeted audiences, such as parents, youth, tourists.

- Garner the support of marijuana businesses to help distribute materials to consumers, including tourists, on responsible use, protecting youth, and what Colorado law allows.
- Use bus ads, social media, and/or other most effective channels for further disseminating Good to Know messaging.
- Focus messaging on the effects (health impacts) associated with teen use of marijuana. Ensure most effective channels to reach youth are being utilized.
- Focus messaging and resources to improve parents’ ability to discuss marijuana and substance use with their children, especially for parents that are marijuana consumers. This could include working with existing parent groups and/or utilizing social media and blogs to best access parents.
- Consider education and outreach to hospitality industry (e.g. hotels and visitors bureau) to help expand educational channels to reach tourists on responsible use and what Colorado law allows.
- Consider accessing local media outlets to assist with messaging (e.g. KGNU).

Programming

Develop a safe storage program to help prevent diversion or accidental ingestion of marijuana

- Ensure safe storage messaging is reaching consumers, especially parents.
- Provide information and/or discounts on low cost options for safe storage

Consider programs that could mitigate public safety concerns around impaired driving

- Provide information on impaired driving, including factual information on what constitutes impaired driving.
- Consider developing and/or promoting convenient options for safe rides home.

FUTURE ENGAGEMENT RECOMMENDATION

- Recommend we schedule one meeting to be held after the City Council Study Session in order to hold the date if meeting is needed.
 - Purpose:
 - Address Council questions or outstanding issues;
 - Provide closure on MAP process;
 - Confirm frequency and criteria for re-engaging as a Panel;
 - Confirm input has been addressed on revised code/ordinance language before it goes to 1st Reading/Public Hearing.
 - Schedule it for the regular 3 hour session (may take less time)
 - Can be determined as unnecessary and cancelled by majority vote of the Panel immediately following the City Council Study Session.

- Future engagement of this Panel should include those representing the entities identified as part of the current Panel – this is not to become another Board or Commission.

- Future engagement of this Panel should occur annually for the purpose of addressing issues with City Staff prior to the annual ordinance update based on the State legislative outcomes and prior to implementation of new laws.

- Future engagement sessions can also serve as the forum to address any community issues and to take public input in order to reduce City Council time dealing with the issues addressed by the Panel.



MARIJUANA ADVISORY PANEL

Summary of Process and Recommendations
City Council Study Session
August 23, 2016

Plan for the Presentation

- Process Overview – Sandra Llanes (City Attorney’s Office)
- Collaboration Overview and Recommendation for Ongoing Discussion: Andrea Meneghel (Boulder Chamber)
- Recommendations for Education and New Programming: Heath Harmon (Boulder County Public Health)
- Summary of Recommendations for Code Changes: Kate Thomson (Skinny Pineapple)
- Next Steps and Questions for Council: Sandra Llanes
- Discussion with Council

Process Overview

- The City Manager selected 12 people to represent the variety of interests in Boulder regarding marijuana regulations.
- Interests on the Panel included marijuana businesses, the broader business community, medical marijuana patients, public health, education (higher education and K-12), the State of Colorado, and the broader Boulder community.
- A meeting facilitator and several members of City staff from multiple departments supported the Panel.
- The Panel met for 11 3-hour meetings, with additional subcommittee meetings occurring offline to explore issues and bring back proposals to the full group.
- All meetings were publicly noticed and all agenda, materials, and minutes were posted on the city website.
- The Panel invited public comment at the end of each meeting to ensure additional perspectives could be heard in the process.

Recommendations Table

- The Panel has prepared a table that summarizes their recommendations.
- The table includes several columns to provide context regarding the recommendations. For each topic, the table includes:
 - *A description of the issue, including multiple perspectives where appropriate*
 - *The current language in the City Code*
 - *The Panel's recommendation*
 - *Staff considerations (where needed, to highlight specific challenges or issues)*
- Some of the Panel's recommendations would require changes to Title 9 of the City Code and/or review and approval by Planning Board prior to Council action. These are noted in the table.

Focal Points to Guide Discussion

Staff shared with the Panel the following focal points that have guided the development of the City Code to date and should be considered in all Panel recommendations:

- *Minimizing negative impacts on neighbors*
- *Eliminating presence in residential areas*
- *Preserving diversity of business types by preventing concentration of businesses*
- *Enforcing regulations for responsible businesses*
- *Protecting public and first responder safety*
- *Ensuring fees cover costs*

Collaborative Approach

- Each discussion on current regulations started with a presentation from staff regarding the current Code language and the reasoning behind it.
- Panel members then:
 - *Asked staff questions to ensure shared understanding about the issue from the City perspective, including any additional legal, implementation, or other concerns.*
 - *Asked one another questions to learn what the interests and perspectives of the various parties were.*
 - *Offered draft recommendations for change to the City code and then discussed them, as well as additional considerations along the way.*
 - *Asked subcommittees to explore options offline and bring back recommendations at a later meeting if needed.*
 - *Reached compromise on all recommendations by consensus.*

Sharing Perspectives

- Collaborative nature of sharing perspectives led to understanding how the local ordinance worked in relation to State law and impacted the community and local businesses.
- The focus was to better align the local ordinance with State regulations while considering the points outlined by the City as our purpose.
- All members of the Panel worked to understand one another's perspectives and find ways to address them until we had recommendations with general support.
- When the Panel got stuck, members would meet in subcommittees to further discuss ideas, concerns, and options in order to bring back a proposal for the larger group to consider.
- In the end, the Panel came together to support all of the recommendations.
- Staff was actively involved in discussions with MAP as recommendations were formed and identified issues, which are reflected in the MAP chart under the heading Staff Considerations.

Recommendation: Annual Discussion

- One meeting to be held if needed in September to address any issues that emerge and to review draft code language from the City Attorney's Office
- Annual meeting of this Panel to serve the following purposes:
 - *Address emerging issues and revisit other topics related to marijuana*
 - *Engage directly in response to State Legislative updates, prior to annual code update*
 - *Address any community issues and to take public input in order to reduce City Council time dealing with marijuana issues*
 - *Address draft policies that are under discussion at the State legislature*
- Maintain current mix of organizational representation, preferably with current members for the sake of efficiency and consistency. Also, potentially add two additional unaffiliated citizens and a Boulder County representative.

Recommendation: Expanded Education

■ Expand “Good to Know” Campaign

- *Audiences include parents, youth, educators, tourists.*
- *Collaborate with marijuana businesses to help distribute materials to consumers*
- *Use most effective channels based on audience (social media, radio, etc.)*
- *Focus messaging on the effects (health impacts) associated with teen use of marijuana; improve parents’ ability to discuss substance use with their children; outreach to hospitality industry*

Time Spent:

- Panel – < 1 meeting
- Subcommittee 1 – 30 min (5 people)
- Subcommittee 2 – 30 min (4 people)
- Plus staff time



Recommendation: New Programs

- Develop a safe storage program to help prevent diversion or accidental ingestion of marijuana
 - *Ensure safe storage messaging is reaching consumers, especially parents*
 - *Provide information and/or discounts on low cost options for safe storage*
- Consider programs that could mitigate public safety concerns around impaired driving
 - *Provide information on impaired driving, including factual information on what constitutes impaired driving*
 - *Consider developing and/or promoting convenient options for safe rides home*

Further Thoughts and Appreciations

- The improved understanding and collaboration among stakeholders was both helpful for the work of this panel and should help create a stronger foundation for future efforts.
- The Panel gratefully acknowledges the leadership of City Council and the City Manager for their thoughtful design of the Panel's purpose and composition.
- We are indebted to the professional staff and law enforcement of the City of Boulder for their public service.
- Many members of the Panel are in the audience tonight and are available to answer any questions from Council.

Outcomes of a Successful Process

- A key outcome is improved understanding and collaboration among stakeholders—including industry, health, community, and City licensing—which in turn enabled compromise among diverse perspectives.
- The Panel discussed and reached agreement on a number of refinements that have already improved the working relationship between industry, City staff, and other stakeholders moving forward. Examples include:
 - *Daylighting and revising the criteria that are used to evaluate prospective business managers to ensure equal access to advancement while maintaining high-quality management*
 - *Reorganizing and revising the schedule of penalty guidelines to increase clarity for industry and ensure that health and safety violations are penalized at an appropriate level*
 - *Creating tiers of modifications that can be made to businesses and clarifying and revising the fees associated with the tiers*

Recommendation: Revisions to Code (KT)

- **Advertising**: The Panel recommends specific updates and clarifications to the code in the areas of terminology, discounts and coupons, informational/educational materials, and sponsorships and events.
- **Merchandise**: The Panel recommends aligning with the State on regulations related to branded and unbranded merchandise.
- **Zoning**: The Panel recommends upholding density restrictions and making adjustments to square footage limits, permanent modifications, virtual separation and caps on licenses for marijuana businesses.
- **Business Operations**: The Panel recommends changes to the hours of operation, background checks and waiting periods, and terminology.
- **Licensing**: The Panel recommends updates and amendments to the City code on license transfers, transfer of products and plants between licensed facilities, and penalty schedules.
- **Sales**: The Panel recommends changes surrounding the sales of clones.
- **IDs**: The Panel recommends flexibility to the ID scanner requirements and the addition of confiscating ID language to match the liquor code.

Recommendation: Revisions to Code Advertising and Merchandise

- Discounts/coupons
- Education
- Events
- Job fair
- Signs (no change)
- Merchandise

Time Spent:

- Panel – over 4 meetings
- Subcommittee – 2 hours (5 people)
- Plus staff time



Recommendation: Revisions to Code Zoning

- Square footage limitations
- Setbacks
- Limit of MIP licenses
- Size of cultivation facilities
- Maximum # of dispensary licenses held by one owner
- Permanent modifications
- Virtual and physical separation

Time Spent:

- Panel – over 4 meetings
 - Needed staff experts' participation
- Plus staff time



Recommendation: Revisions to Code Business Operations

- Term “business manager”
- 30-day waiting period for manager background checks
- Manager background criteria
- Hours of operation
- Visitors
- Maintaining surveillance backup – align with State
- Odor regulations (no change)

Time Spent:

- Panel – over 4 meetings
- Subcommittee – 30 min (5 people)
- Plus staff time



Recommendation: Revisions to Code Licensing

- Transfer license to new owner
- Transport between facilities
- MIP applications
- Posting for suspensions
- Schedule of penalties
- Transfer of license location (no change)

Time Spent:

- Panel – over 3 meetings
- Subcommittee – 30 min (5 people)
- Plus staff time



Recommendation: Revisions to Code Sales and IDs

Sales

- Labeling of product
- Sale of clones
- Seeds (no change)

IDs

- ID scanner requirement
- ID scanners at grows/MIPs
- Confiscating fraudulent IDs

Time Spent:



- Panel – over 1 meetings
- Subcommittee – 30 min (5 people)
- Plus staff time

Time Spent:



- Panel – over 1 meetings
- Subcommittee – 15 min (5 people)
- Plus staff time

Questions for Council

1. Do you agree with the Panel's recommendations? If so, which Panel recommendations should staff draft an ordinance to implement?
2. Does Council support the Panel's recommendation regarding future Panel work? If not, how does Council wish to handle any future issues that may arise?
3. Are there any questions you would like answered by the Panel or staff regarding the materials presented today?



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 6, 2016

AGENDA TITLE: Second reading and consideration of a motion to adopt emergency Ordinance 8157 implementing the recommendations of the Marijuana Advisory Panel by amendments to Sections 4-20-64 and 4-20-67, B.R.C. 1981, regarding medical and recreational marijuana fees, and Chapter 6-14 regarding medical marijuana and Chapter 6-16 regarding recreation marijuana, B.R.C. 1981, and setting forth related details.

PRESENTERS

City Staff:

Jane S. Brautigam, City Manager

Thomas Carr, City Attorney

Kathleen E. Haddock, Senior Assistant City Attorney

Sandra M. Llanes, Senior Assistant City Attorney

Mishawn Cook, Licensing and Collections Manager

Beverly Bookout, Boulder Police Officer, Marijuana Enforcement Division

EXECUTIVE SUMMARY

On August 23, 2016, council heard the recommendations of the Marijuana Advisory Panel (“MAP” or “Panel”) and directed staff to draft an ordinance to implement recommendations and to address any recommendations that have an impact on land use separately.

At a subsequent meeting on September 29, 2016, the Panel agreed that city staff should separate the recommendations that require changes to Title 9 (implicate land use, zoning, density, and size regulations) from those that are more immediately actionable and which are being brought forward in the proposed ordinance **Attachment A**. This agenda item provides a draft ordinance that amends portions of the recreational and medical marijuana code as directed by city council. The draft ordinance found in **Attachment A**, mirrors the Panel’s recommendations presented at the study sessions but does not include any proposed changes that have an impact on land use issues. This issue is described in greater detail later in this memo.

At the direction of Boulder’s City Council, a 12-member MAP was formed in January 2016 to take a comprehensive review of the existing city code related to marijuana regulation,

and to make recommendations related to any potential changes to topics related to advertising, public health impacts, licensing, zoning, and more. Council approved a Charter that provided the MAP with direction to analyze both state regulations and Boulder’s code in order to understand regulatory intent and impact, to solicit public input, and to discuss possible changes to the code – all while preserving and promoting Boulder’s unique community values.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:

Second reading and consideration of a motion to adopt emergency Ordinance 8157 implementing the recommendations of the Marijuana Advisory Panel by amendments to Sections 4-20-64 and 4-20-67, B.R.C. 1981, regarding medical and recreational marijuana fees, and Chapter 6-14 regarding medical marijuana and 6-16 regarding recreation marijuana, B.R.C. 1981, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Support for the burgeoning marijuana industry by creating clarity in the regulations, more economic opportunities, and a more level playing field with marijuana businesses outside of the city of Boulder.
- Environmental – None anticipated.
- Social – The proposed changes to the regulation support preserving and promoting Boulder’s unique community values.

OTHER IMPACTS

- Fiscal - Budgetary impacts to the city organization would not be affected.
- Staff time – In general, staff will be able to implement the recommendations in existing work plans.

BOARD AND COMMISSION FEEDBACK

None required.

BACKGROUND

Boulder first adopted regulations on marijuana businesses in 2010 for the medical marijuana businesses that had been established by the medical marijuana amendment to the Colorado Constitution in 2000. When Colorado voters approved recreational marijuana in 2012, the city adopted code provisions for recreational marijuana that mirror those of the medical marijuana code.

Since the first licensed recreational businesses opened in early 2014, voters approved an additional sales tax and an excise tax on recreational marijuana on the November 5, 2013, ballot. Since then, the additional recreational marijuana tax and the city's sales and use tax, on both recreation and medical marijuana businesses in Boulder, have generated nearly

\$8.1 million in tax revenue. A percentage of these monies have been directed towards marijuana educational programs through the City's Department of Human Services. The remainder of the monies have gone to the City's general fund, as well as help pay for parks and recreation, open space, education, youth prevention, and transportation. However, this work has carried an opportunity cost as well: Boulder's City Council and City staff have worked on a number of labor-intensive revisions to Boulder's medical and recreational marijuana business codes in collaboration with industry. In addition businesses have regularly requested amendments to the marijuana codes resulting in council addressing this issue numerous times.

At the direction of Boulder's City Council, a 12-member MAP was formed in January 2016 to take a comprehensive review of the existing city code related to marijuana regulation, and to make recommendations related to any potential changes to topics related to advertising, public health impacts, licensing, zoning, and more. Council approved a Charter (*see Attachment B*) that provided MAP with direction to analyze both state regulations and Boulder's code in order to understand regulatory intent and impact, to solicit public input, and to discuss possible changes to the code—all while preserving and promoting Boulder's unique community values. The make-up of the Panel included three marijuana businesses and representatives from county health, education, the Chamber, and other members of the city with different perspectives on the marijuana issues. A member of the Marijuana Enforcement Division of the Colorado Department of Revenue ("MED") also served as an ex-officio member. (*See Attachment C* for the composition of MAP.)

The MAP undertook the task to better assess the impact of Boulder's code on public health, safety, and the competitiveness of the Boulder-based marijuana industry. In the course of its work, the Panel also reviewed differences between city and state regulations, and the interconnectedness between business operations, enforcement, and youth education.

MAP actively included the perspectives of a cross-section of community representatives and leaders, such as the Boulder Chamber, Boulder County Public Health, Boulder Valley School District, the State of Colorado's Marijuana Enforcement Division, the University of Colorado, as well as patient advocates, legal experts, independent small business owners and community members.

MAP Meeting Process

At each of MAP's 11 public meetings, public participation helped inform and improve the panelists' understanding of the complexities surrounding the city of Boulder's local ordinance and congruence with state regulations, impacts upon the community and local businesses within the marijuana industry. All meetings were publicly noticed, all meeting agendas, materials, and minutes were posted to the city's [website](#), were open to the public, and included a time for public comment. Additionally, MAP developed several subcommittees representing the diverse interests on the Panel; these subcommittees worked between meetings to increase their shared understanding of issues and bring proposals to the rest of the Panel for consideration.

Consensus Through Rigorous Discussion

MAP held substantive discussions on dozens of topics, which were addressed through a balance of perspectives that considered the community's goals to protect community health and the safety of Boulder's youth, to support economic vitality, and to seek clarity and regulatory consistency between local ordinances and state regulations. Each discussion on current regulations began with a presentation from Staff—and generally included participation from the Boulder Police and Fire Departments, MED, and others—on the intent and scope of existing language in the ordinance. These discussions led to consensus-based decisions and recommendations, and incorporated the professional expertise and personal views from stakeholders and public commenters.

Through the discussions, the Panel understood the interrelationship between the state and city marijuana codes, recognized the co-existence was intended as the state and the city regulate different parts of the industry, and eliminated areas of potential conflict between the state and city laws resulting from new MED rules that went into effect on October 1, 2016.

One of the most difficult issues was related to advertising and merchandising. This is the area that was one of the most important, if not the most important, to education and community health to minimize advertisement and branding that impact minors. On the other hand, marijuana is a business, and the owners want to take advantage of branding and marketing their products. For the businesses, because there are few if any tax deductions for business expenses related to marijuana, the more non-marijuana merchandise that centers can sell, the higher the percentage of expenses that can benefit from business tax deductions.

Study Session on August 23, 2016

MAP provided council with their recommendations at the August 23rd study session. At the conclusion of the study session, council directed the MAP and staff to do the following:

- Organize a follow up meeting with the Panel to review and discuss draft code language based on the Panel's recommendations;
- Schedule a time for an ordinance to be considered by council;
- Discuss and evaluate next steps related to recommendations that implicate changes to Title 9 Land Use/Zoning and Density Restrictions; and
- Schedule next and last MAP meeting.

MAP Follow up meeting on September 29, 2016

Staff provided MAP with the draft amendments to the marijuana codes that would be necessary to implement MAP's recommendations. MAP and staff met on September 29th to follow up on the study session items as directed by council, and review all of the potential code changes. The MAP and staff collaborated on the draft code language to ensure that it mirrors the Panel's recommendations. The attached ordinance only includes the sections of the codes proposed to be changed. The full medical and recreational marijuana codes, with the changes recommended in redline, is included in this packet as **Attachment D**, and the highlighted portions show amendments requested by the businesses in the enclaves

recently annexed, to which MAP did not object. A full summary of the MAP September 29th meeting can be found here:

<https://documents.bouldercolorado.gov/WebLink8/0/doc/137721/Electronic.aspx>

Some of the Panel's recommendations involve land use issues that must go through a Title 9 process before being implemented, such as anything associated with zoning, density, and size regulations. Susan Richstone, Deputy Director of the Planning Department, explained that any actions related to planning and land use must be placed into the Planning Department's work plan by City Council, at their annual retreat. City Council sets the priorities for this department in January, and anything that is to be added must have their approval. Approximately 80 percent of the Planning Department's workload is simply responding to applications, and that only leaves 20 percent capacity to complete Council-prioritized projects, such as the Boulder Valley Comprehensive Plan Update, housing assessments, and Boulder Community Hospital redevelopment. None of the recommendations coming from the Panel are small or insignificant, so their implementation will require staff analysis, extensive stakeholder engagement, and significant policy decision. The Planning Board would then have to review the recommended changes and decide whether to recommend them to City Council for implementation.

The Panel agreed that City staff should separate the recommendations that require changes to Title 9 (implicate land use, zoning, density, and size regulations) from those that are more immediately actionable and are included in **Attachment A**. The recommendations that are included in the draft ordinance are found in the chart identified as **Attachment E**. The recommendations that have to be considered for the Planning Department work plan are in **Attachment F**.

Key Recommendations

By consensus, MAP prepared more than three dozen recommendations for Council's consideration according to the following areas: Advertising, Business Operations, ID Scanner Requirements, Licenses, Merchandise, Sales, and Zoning. These are summarized below. A full list of the Panel's recommendations not related to land use are found in **Attachment E**.

1. Advertising: MAP recommends specific updates and clarifications to the code in the areas of discounts and coupons, informational/educational materials, sponsorships and events, and terminology.
2. Business Operations: MAP recommends expansion to the hours of operation and changes to background checks and waiting periods, as well as terminology.
3. Licensing: MAP recommends updates and amendments to the City Code on license transfers, penalty schedules, and transfer of products and plants between licensed facilities.
4. Merchandise: MAP recommends aligning with the state on regulations related to branded and unbranded merchandise.

5. Zoning: MAP recommends upholding density restrictions for dispensaries. The Panel also recommends making adjustments to caps on licenses for marijuana businesses, permanent modifications, square footage limits, and virtual separation.

ANALYSIS

The Marijuana Enforcement Staff is supportive of the MAP recommendations. There are a few, however, that present particular issues for your consideration. Generally, those issues are identified in the "Staff Considerations" column of the Recommendations Chart attached as **Attachment E**.

Staff recommends adoption of the proposed Ordinance 8157. It is important to note that many Panel members made some concessions in order to reach consensus. With that in mind, adoption of the MAP recommendations as a total package is the preferred approach.

Merchandising

As mentioned above, merchandising was one of the most difficult issues for the Panel, because the interests are so different between the industry and those concerned about the effect of marijuana on youth. For the businesses, being able to sell additional merchandise allows them to deduct expenses that are not deductible when related to marijuana. Marketing and branding are also recognized ways to expand a business.

For those concerned about the effect of marijuana on youth, there is a desire to not repeat the mistakes related to smoking, as in the example of nicotine smoking and Joe Camel. Having a sticker or a t-shirt or other item for a certain brand, can become important to youth, which according to Boulder County Public Health, statistically increases use among youth. This issue comes up in at least two recommendations of MAP:

1. Amount of Non-Marijuana Merchandise that Can Be Sold: Currently marijuana centers can only sell marijuana, marijuana products or their own branded merchandise. The state prohibits the sale of any consumable non-marijuana product. MAP has recommended that there be no limit on the non-marijuana, non-consumable merchandise that can be sold in a center. As was discussed at the study session, that scenario could result in a store that sells marijuana in a small percentage of the space and non-marijuana, non-consumable products in the majority of the store. Because of the marijuana, the store could only be open to those over the age of 21. The balance struck in the liquor code is that no more than 20 percent of the revenue of the business can come from the sale of merchandise that is not alcohol. While the argument that marijuana should be regulated like alcohol is used as a sword or a shield, depending on the speaker's viewpoint, it does provide some guidance to keep recreational marijuana centers primarily marijuana. If council chose to make this condition applicable, it would add a new subsection (2) to 6-16-7(g) as follows:

...or (2) the business receives no more than 20% of its revenue from sale of items other than marijuana and marijuana-infused products and marijuana accessories.

2. Particular Items That May Be Sold: The other merchandising issue has to do with selling items that may have a minimal monetary cost, but have a big impact on youth, like stickers. The MAP agreed marijuana businesses could not give away free promotional items or anything for free, but didn't want to have a specific dollar amount requirement other than they couldn't sell anything below cost. For stickers and promotional items that is a distinction without a difference. If Council chooses to address this issue, it could give staff direction for amendments to be made to the definition of "promotional items."

Modifications Since First Reading

City staff have been working closely with the Panel in drafting the code changes and ensuring that they align with the Panel's recommendations by memorializing meeting notes and communicating in person and by email. Since first reading, there were three issues that arose. All have since been resolved.

The first issue dealt with the definition of "appealing to minors" and was resolved to remain the same as in the first reading ordinance. The second issue was a staff error regarding grandfathering provisions, and the third was related to company materials distributed at an adult event.

Both the second and third issue are described in more detail below:

- A. The intent was to allow licenses were to be transferable, even if in a grandfathered location and, if the grandfathering was because the business was too close to a school or more than 3 marijuana businesses within 500 feet of each other. Previously any marijuana business location that was grandfathered for those reasons, or because they were in a residential area could not be transferred or sold. In order to accomplish this intent, and only prohibit transfer of licenses for marijuana business located in residential areas, Section 3 of the ordinance eliminates "or (f)" from 6-14-3(e)(3) and Section 14 of the ordinance eliminates "or (e)" from 6-16-3(e)(3).
- B. Members of MAP believe that the Panel's intent was to allow company materials as well as education materials at adult events, therefore, "company or" was added in Section 7 of the ordinance amending 6-14-8(p)(2)(F) and Section 19 of the ordinance amending 6-16-8(p)(1)(F).

CITY MANAGER RULES

The Panel also asked for guidance on how code items would be interpreted. Staff suggested that creating City Manager Rules is the way to deal with such issues. If council approves the ordinance, staff can prepare rules consistent with council's decision and previously approved MAP recommendations. MAP will have an opportunity to provide comments on draft rules prior to initiating the rule adoption procedure. The rules are intended to provide

examples and clarification of code provisions that give guidance to businesses without undermining the ability to enforce the code. These issues are particularly related to giving examples of the different types of modification of premises, and by example describing what type of advertising is allowed by the code and what advertising is not allowed. Specific areas that MAP has asked staff to cover in the rules include:

- 1) Penalty Schedule Guidelines;
- 2) Modification table as to examples of Minor and Major Modifications; and
- 3) Definitions/examples of:
 - promotional/educational/company-related material
 - tourists;
 - educational purposes for being in restricted areas;
 - what can/not be incidental to sponsorship;
 - pre-orders for immature plants; and
 - minimal costs.

TWO DIFFERENT TYPES OF LICENSE TRANSFERS - CLARITY REGARDING TRANSFER OF LICENSES

Related to the first reading of the ordinance, there has been some confusion related to transfers of marijuana business licenses. Alleviating the confusion requires recognition that there are two different types of transfers of license:

- (1) transfer ownership at the same location, and
- (2) transfer ownership of a business to a different location.

Staff supports the first type of code change and is included in this ordinance in Section 3 amending Section 6-14-3(e) and Section 14 amending Section 6-16-3(e). This change ALLOWS the name of the business on the license to change, as well as change in the individuals owning and managing that business. The existing land use approval remains the same and is grandfathered to the next business owner, so long as there is compliance with the land use rules related to grandfathering. Under existing code provisions, the only exception is the one business that is located in a residential area.

The second type of transfer – transfer of a license to a different location - IS NOT being brought forward in this ordinance, because a new location raises many land use review issues such as, zoning restrictions, size/density/distance restrictions, and neighborhood effects. This type of change will be brought forward with all of the other MAP recommended changes that implicate land use code changes at a future date.

Staff's position on the second type of transfer has been that a new license is usually required for a new location rather than transferring an existing license with no land use review. This logic parallels how liquor license transfers are handled in the liquor code. If the transfer is

for a new owner as well as a new location, it would also have all the qualification and background check issues that are usually required of a new license application. Further the plans that control the license are for specific locations in a specific building footprint. A new license accommodates the land use review necessary for the change of location, as well as the building specific issues.

PASS ORDINANCE BY EMERGENCY

Provisions have been added to the ordinance in **Attachment A** so that the ordinance will be effective immediately. The Panel and marijuana businesses have worked on recommendations since the beginning of this year, they have been waiting a long time for these changes and there is no reason to delay them further. Furthermore, Council has had an enormous amount of work in the last quarter of the year and, as a result, was not able to address this ordinance any earlier in the year. Lastly, for staff, it will be more efficient to complete the necessary form changes and adopt the rules for implementation during the “down” time at the end of the year rather than adding it to the efforts that are planned for the next year. Staff recommends adoption of proposed Ordinance 8157 by emergency in the form of **Attachment A**.

ATTACHMENTS

Attachment A: Proposed Emergency Ordinance 8157

Attachment B: Charter for Marijuana Advisory Panel

Attachment C: List of MAP members and areas of interest

Attachment D: Full marijuana codes with changes redlined

Attachment E: Chart of MAP Recommendations

Attachment F: Chart of MAP Recommendations with Land Use Changes

ORDINANCE 8157

AN EMERGENCY ORDINANCE IMPLEMENTING THE RECOMMENDATIONS OF THE MARIJUANA ADVISORY PANEL BY AMENDING SECTIONS 4-20-64 AND 4-20-67, B.R.C. 1981, REGARDING MEDICAL AND RECREATIONAL MARIJUANA FEES, AND CHAPTER 6-14 "MEDICAL MARIJUANA CODE," B.R.C. 1981 AND, CHAPTER 6-16 "RECREATIONAL MARIJUANA CODE," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapters 6-14 "Medical Marijuana" and 6-16 "Recreational Marijuana" are amended by changing the words "business manager" to "keyholder" in every place referenced in those chapters.

Section 2. Section 6-14-2, B.R.C. 1981, is amended by adding new definitions, deleting the definitions struck, and revising existing definitions, as follows:

6-14-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Adult Event means any event at which no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21. To be considered an Adult Event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over 21 years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than 30 percent of the audience, and those viewing advertising for the event, under the age of 21. No event on city property or dedicated trails for which access and visibility cannot be controlled may be considered an Adult Event.

Appealing to Minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under 21 years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under 21 years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

~~Business manager means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner~~

1 from the business premises. ~~Business manager shall include any person with managerial authority~~
2 ~~in the business, and any person that has access to lock or unlock the safe, to unlock or lock the~~
3 ~~business, or set or disarm the alarm.~~

3 Company material means any information printed or transmitted electronically that includes
4 the name and logo of a particular marijuana business(es), and promotes the business or describes
5 marijuana or marijuana-infused product distributed by the business(es). Company material may
6 include promotion of the business to potential employees over the age of 21 or investors, or
7 instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

6 Coupon means a printed voucher or token entitling the holder to a discount for a particular
7 product or service. Coupon does not include showing a government-issued verification of age or
8 military status, or registration for a charitable event, or similar item the showing of which, without
9 providing a separate printing to the business, entitles the holder to a discount for a particular
10 product or service.

9 Cultivation facility or optional premises means a licensed medical marijuana business that is
10 owned by the same owner as a medical marijuana center and produces and harvests medical
11 marijuana plants for a medical use for distribution by such a licensed medical marijuana
12 business center. Except as included in this definition, a cultivation facility may not operate any
13 production on its premises.

12 Educational material means materials prepared by a governmental or non-profit entity that
13 are designed to provide information, facts, instructions, and warnings related to the legal use and
14 consumption of marijuana and marijuana products. Educational materials do not include
15 arguments for or against the legalization of marijuana or encourage the use of marijuana or
16 advertisements, including the name and logo for any marijuana business.

15 Financier means any person who lends money or otherwise provides assets to any person
16 applying for a license or who has been issued a license under this chapter. If a financier is an entity
17 rather than an individual, the same disclosure shall be required for each entity with an ownership
18 interest until a managing member that is a natural person is identified. Financier shall not include
19 a bank, savings and loan association, credit union, or industrial bank supervised and regulated by
20 an agency of the state or federal government, or any person in the business of leasing equipment
21 to marijuana business for which the rental amount does not include any percentage of the business
22 or its profits.

19 Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice,
20 advertisement, or announcement, usually for distribution by hand, for free, either directly to an
21 individual or by placement on vehicles or other locations. Handbill, leaflet or flyer does not
22 include educational materials without the name or logo of a marijuana business, or information
23 made available within the licensed premises of a marijuana business.

22 Immature plant means a nonflowering marijuana plant that is not required by the Colorado
23 Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an
24 immature plant if it is taller than eight inches and wider than eight inches.

24 Incidental to Sponsorship of Charitable Events means the printing of the names of all sponsors
25 of a particular charitable event by the event organizer on advertisements, banners, clothing,
26 programs, or similar items. Incidental to sponsorship of charitable events does not include the

1 placement of a booths or distribution of materials that does not list or is for the use of all sponsors
2 of the event.

3 *Job fair or educational seminar* means an adult event held for the purpose of (a) connecting
4 persons seeking jobs in a particular industry with employers in that industry or (b) educating others
5 on matters related to the legal marijuana industry.

6 *Keyholder* means the individual designated by the owner of the medical marijuana business
7 as the person responsible for all operations of the business in the absence of the owner from the
8 business premises. Keyholder shall include any person with managerial authority in the business,
9 and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or
10 disarm the alarm.

11 *Medical marijuana plant* means a marijuana seed that is germinated and all parts of the growth
12 therefrom, including, without limitation, roots, stalks, and leaves. *Medical marijuana plant* shall
13 include immature plants except where specifically excepted in this code. For purposes of this
14 chapter, the portion of a medical marijuana plant harvested from the plant or converted to a usable
15 form of medical marijuana for medical use is not considered part of the plant upon harvesting.

16 *Minor* means a person under twenty-one years of age.

17 *Modification of Premises* means a change to a marijuana business that requires a building or
18 other permit from the city or changes any part of the plans required as part of the application for
19 the marijuana business license. Modification of premises does not include routine maintenance,
20 including replacement of light bulbs or filters, painting, cleaning or replacement of non-
21 mechanical items such as windows and flooring so long as the maintenance does not result in a
22 change to the plans required as part of the application.

23 *Place open to the general public* means any property owned, leased, or used by a public entity,
24 and any place on private property open to the public, common area of buildings, private clubs,
25 vehicles, those portions of any private property upon which the public has an express or implied
26 license to enter or remain, and any place visible from such places. Place open to the general public
27 shall not include (a) any fenced area of a private residence regardless of whether it can be seen
28 from a place open to the public, or (b) any enclosed portion of a building not visible from a place
29 open to the public which qualifies as an adult event.

30 *Promotional items* means any item, including printed materials, that contain the name and or
31 logo of a marijuana business and are distributed for free or a minimal cost. Promotional items, or
32 “swag” includes stickers, clothing, tangible goods, and similar items that are intended to expose
33 others to the name or logo of a particular business. Promotional items does not include educational
34 materials.

35 Section 3. Section 6-14-3, B.R.C. 1981, is amended to read:

36 **6-14-3. - License Required.**

37

38 (d) Separate License Required for Each Location. A separate license shall be required for each
39 premises from which a medical marijuana business is operated. Except as specifically
40 provided in this chapter, ~~No~~ two or more different medical marijuana businesses may be

1 treated as one premises. Unless higher performance is required by applicable law, there must
2 be a minimum of a one-hour fire separation wall between a medical marijuana business and
any adjacent business.

3 (e) License Nontransferable; Exceptions. A medical marijuana business license is not
4 transferable or assignable, including, without limitation, not transferable or assignable to a
5 different premises, to a different type of business, or to a different owner or licensee. A
6 medical marijuana business license is valid only for the owner named thereon, the type of
7 business disclosed on the application for the license, and the location for which the license
is issued. The licensees of a medical marijuana business license are only those persons
disclosed in the application or subsequently disclosed to the city in accordance with this
chapter. A transfer of a licensed medical marijuana business shall be permitted in the
following circumstance:

- 8 (1) The new owner and all licensees of the business have submitted completed applications
9 and passed a background check ~~previously been approved by the city; as part of another~~
~~licensed medical marijuana business;~~
- 10 (2) The new owner is not making changes to any of the plans or conditions that are part of
11 the license; applies for and receives a new medical marijuana business license for the
12 new location; and
- 13 (3) The license transfer location is permitted without the exceptions of Subsection 6-14-7(c)
14 ~~or (f)~~ of this chapter.

15 Section 4. Subsections (6)(C) and (15) of Section 6-14-5, B.R.C. 1981, are amended to read:

16 **6-14-5. - Application; Modification of Premises.**

17

18 (6) An operating plan for the proposed medical marijuana business, including the following
19 information:

20

21 (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its
22 responsibilities to the neighborhood for effective mitigation of community impacts,
23 including neighborhood outreach, methods for future communication, and dispute
24 resolution.

25

(15) Modifications to Approved Medical Marijuana Business License. Prior to making an
modification of a marijuana business that would require a building permit or change
items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall
submit to the city and have approved a completed application for modification of
premises in the form provided by the city. No applications for new medical marijuana
businesses shall be accepted between November 1, 2013, and May 31, 2014.

....

....

1 Section 5. Subsection 6-14-6(a)(14), B.R.C. 1981, is amended to read:

2 **6-14-6. - Persons Prohibited as Licensees and ~~Business Manager~~ Keyholders.**

3 (a) It shall be unlawful for any of the following persons to have an ownership or a financial
4 interest in a medical marijuana business, and no license provided by this chapter shall be
5 issued to or held by, and no medical marijuana business shall be managed by:

5

6 (14) Any person applying for a license to operate a medical marijuana center who has been
7 licensed to operate ~~three other marijuana centers businesses in the city pursuant to either~~
8 this chapter or Chapter 6-16 another medical marijuana center in the city pursuant to this
9 chapter. ~~For purposes of this subparagraph only, one co-located medical and~~
10 recreational marijuana center is considered one marijuana center.

11

12

13 Section 6. Section 6-14-7(f), B.R.C. 1981, is amended to delete subsection (2) requiring
14 cultivation facilities to be more than five hundred feet away from schools, day cares, and addiction
15 recovery centers to read:

16 Section 7. Sections 6-14-8(b), (e), (f), (m)(5) and (6), (p)(2), (4) and (5), B.R.C. 1981 are
17 amended, and new subsections (v) and (w) are added, to read:

18 **6-14-8. - Requirements Related to Operation of Medical Marijuana Businesses.**

19

20 (b) Restriction on Access to Restricted Area.

21 (1) No person, other than a patient, licensee, employee, or a contractor, shall be in the
22 restricted area. No patient shall be allowed entry into the restricted area without showing
23 a valid picture ID and evidence that the person is a patient.

24 (2) No person, other than an employee or contractor of the business or a visitor shall be
25 permitted in the restricted area of the business. For purposes of this subsection, a visitor
26 means a person that is accessing the restricted area for educational business purposes. No
27 access to the restricted area may be permitted by tourists or for compensation. The
28 business must require that all visitors comply with all requirements for access to limited
29 access areas as required by the Colorado Marijuana Enforcement Division. The log
30 required shall be maintained on the business premises and available for inspection upon
31 request by the city.

32

1 (e) Owner or ~~Business Manager~~Keyholder Required on Premises. No medical marijuana
2 business shall be managed by any person other than the licensee or the ~~business~~
3 ~~manager~~keyholder listed on the application for the license or a renewal thereof. Such licensee
4 or ~~business manager~~keyholder shall be on the premises and responsible for all activities
5 within the licensed business during all times when the business is open or in the possession
6 of another person. In the event the licensee intends to employ a ~~business manager~~keyholder
7 that was not identified on the license or renewal application, the licensee shall report the
8 name of such ~~business manager~~keyholder to the city, and such ~~business manager~~keyholder
9 shall submit to the city, at least thirty days prior to commencing serving as the ~~business~~
10 ~~manager~~keyholder, an application containing all of the information required by this chapter
11 and on the license application. Such licensee shall report to the city any change in ~~business~~
12 ~~manager~~keyholders at least thirty days prior to employing an additional ~~business~~
13 ~~manager~~keyholder, and no more than five days after a ~~business manager~~keyholder is released
14 from such position. In the event the licensee submits a completed application for the new
15 keyholder with a copy of a valid Occupational Key Badge issued by the state Marijuana
16 Enforcement Division, the applicant may work as a keyholder for the licensee upon
17 submission of the application up until final city determination is made on such application.

18 (f) Hours of Operation. A medical marijuana center shall be closed to the public, and no sale or
19 other distribution of marijuana shall occur upon the premises or via delivery from the
20 premises, between the hours of ~~10~~7 p.m. and 8 a.m. Provided however, in the event that a
21 planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may
22 be returned to the center.

23

24 (m) Delivery Between Medical Marijuana Businesses. It shall be unlawful for any person to
25 transport medical marijuana, except as specifically allowed by applicable law, unless the
26 medical marijuana being transported meets the following requirements:

27

28 (4) Unless otherwise specifically allowed by applicable law, medical marijuana may be
29 transported only between medical marijuana businesses:

30 (A) ~~From a medical marijuana cultivation facility to a medical marijuana center; and~~

31 (B) ~~Which medical marijuana business is owned by the same person as owns the cultivation~~
32 ~~facility; or~~

33 (C) ~~Between one medical marijuana center to another medical marijuana center, or from a~~
34 ~~medical marijuana cultivation facility to another medical marijuana cultivation facility,~~
35 ~~with proper bill of sale completed before transport.~~

36

37 (5) The medical marijuana must be accompanied by the manifest ~~and confirmation email~~
38 ~~from the state~~ in accordance with state requirements for transport of marijuana.

39

40 (p) Advertisement. A medical marijuana business may not advertise in a manner that is
41 inconsistent with the medicinal use of medical marijuana. A medical marijuana business may
42 not advertise in a manner that is misleading, deceptive, false, or designed to appeal to minors.

1 Advertisement that promotes medical marijuana for recreational or any use other than for
2 medicinal purposes shall be a violation of this code. The following conditions shall apply:

....

3 (2) Except as otherwise provided in this paragraph, it shall be unlawful for any person
4 licensed under this chapter or any other person to advertise any medical marijuana or
5 medical marijuana-infused product anywhere in the city where the advertisement is in
6 plain view of or in a place open to the general public, including advertising utilizing any
7 of the following media: any billboard or other outdoor general advertising device as
8 defined by the zoning code; any sign mounted on a vehicle; any handheld or other
9 portable sign; or any handbill, leaflet, or flier directly handed to any person in a public
10 place, left upon a motor vehicle, or posted upon any public or private property. The
11 prohibition set forth in this paragraph shall not apply to:

12 (A) Any sign located on the same zone lot as a medical marijuana center which exists
13 solely for the purpose of identifying the location of the medical marijuana center and
14 which otherwise complies with this code and any other applicable city laws and
15 regulations, which sign includes only the name and address of the center;

16 (B) Any advertisement contained within a newspaper, magazine, or other periodical of
17 general circulation within the city or on the internet, which may include coupons;

18 (C) Any products marked with the name or logo of a marijuana business ~~the licensed~~
19 ~~medical marijuana center~~, including wearable or non-consumable merchandise,
20 packaging in which marijuana is sold, or on medical marijuana accessories sold; or

21 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
22 ~~medical marijuana center or a medical marijuana-infused products manufacturer~~
23 business.

24 (E) A booth at a job fair or educational seminar where the only items distributed are
25 company or educational materials, and no other items are distributed, shown or sold.

(F) A booth at an adult event where the only items distributed are company or educational
materials, and no other items are distributed, shown or sold.

....

(4) No medical marijuana business shall distribute or allow the distribution of any marijuana
or products marked with its name or logo without charge within a marijuana business or
any place open to the public for the purpose of promotion or advertising except as
permitted in subsections (2)(E) and (F) of this section (p).

(5) No medical 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 except as
permitted in subsections (2)(E) and (F) of this section (p).

(6) No medical marijuana business shall sell, distribute, or provide, or allow the sale,
distribution, or provision of, products marked with its name or logo, in child sizes,
designed for the use of minors, or which is misleading, deceptive, false, or appealing to
minors.

1

2 (v) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has
3 reasonable cause to believe that a person is under twenty-one years of age and is exhibiting
4 fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana
5 or marijuana product, the licensee or employee shall be authorized to confiscate such
6 fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be
7 turned over to the Boulder Police Department.

8 (w) Sale of Immature Plants. A medical marijuana center may not sell immature plants, unless
9 (a) no more than six (6) immature plants are sold to any one customer, and (b) the immature
10 plants are not transferred from the medical marijuana cultivation facility to the center until
11 the day the patient is to pick up the immature plants and no immature plants are maintained
12 at the center overnight. The business may require a deposit with any pre-orders.

13

14 Section 8. Section 6-14-9(b), B.R.C. 1981, regarding separate bank accounts is deleted.

15 Section 9. Section 6-14-10(a), B.R.C. 1981, is amended to change "thirty" to "forty" for
16 the amount of time to maintain recordings from security cameras to be consistent with state
17 requirements.

18 Section 10. Section 6-14-11, B.R.C. 1981, is amended to read:

19 **6-14-11. - Requirements for Public Health and Labeling.**

20 (a) Medical Marijuana-Infused Products. The production of any medical marijuana-infused
21 product shall be at a medical marijuana-infused product manufacturer that meets all
22 requirements of a retail food establishment as set forth in § 25-4-1601, *et seq.*, C.R.S., the
23 Food Protection Act. The production of any product containing medical marijuana shall
24 comply with all health and safety standards thereof. The licensee shall comply with all
25 applicable state and local health regulations related to the production, preparation, labeling,
and sale of prepared food items as if the medical marijuana-infused products were food items.

(b) Labeling and Packaging Requirements. All medical marijuana sold or otherwise distributed
by the licensee shall be packaged and labeled in a manner that advises the purchaser that it
contains marijuana and specifies the amount of marijuana in the product, that the marijuana
is intended for medical use solely by the patient to whom it is sold, and that any resale or
redistribution of the medical marijuana to a third person is prohibited. In addition, the label
shall comply with all applicable requirements of the State of Colorado and any other
applicable law. ~~be in print large enough to be readable and shall include:~~

(1) ~~Potential food allergy ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts,~~
~~wheat, and soybeans.~~

1 ~~(2) All additives used to extract THC, including, without limitation, pesticides, herbicides, and~~
2 ~~fertilizers that were used in the cultivation of the medical marijuana used in the product.~~

3 ~~(3) The following warning:~~

4 ~~THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS MANUFACTURED~~
5 ~~WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR~~
6 ~~EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE~~
7 ~~INGESTION OR USE OF THIS PRODUCT.~~

8 (c) The product shall be packaged in a sealed container that cannot be opened without obvious
9 damage to the packaging.

10 Section 11. Section 6-14-13(26) is amended, and new subsections (36), (37), (38), (39,
11 and (40) are added to read:

12 **6-14-13. - Prohibited Acts.**

13

14 (26) Distribute a medical marijuana plant to any person, except as permitted in this chapter
15 for immature plants.

16

17 (36) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other
18 periodical of general circulation within the city or on the internet.

19 (37) Failure to provide a copy or record of a coupon authorized under this chapter upon request
20 of an authorized city employee.

21 (38) Fail to confiscate fraudulent proof of age. It shall be an affirmative defense if the person
22 reasonably believed that attempts to confiscate a fraudulent proof of age would cause a
23 threat to any person or disruption to the business.

24 (39) Fail to post the premises during a suspension.

25 (40) Distribute any consumable product, not including bottled water that is not a marijuana-
infused product.

....

....

Section 12. Section 6-14-14, B.R.C. 1981, is amended to add a new subsection (e) to read:

6-14-14. - Suspension or Revocation of License; Imposition of Fines.

....

(e) In the event of the suspension of a marijuana business license, during the period of
suspension, the business:

- 1 (1) Shall post two notices provided by the Marijuana Licensing Authority, in conspicuous
2 places, one on the exterior and one on the interior of its premises for the duration of the
3 suspension; and
4 (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers
5 into the licensed premises.

6
7 Section 13. Section 6-16-2, B.R.C. 1981, is amended by adding new definitions, deleting
8 the definitions struck, and revising existing definitions, as follows:

9 **6-16-2. - Definitions.**

10 The following words and phrases used in this chapter have the following meanings unless the
11 context clearly indicates otherwise:

12 Adult Event means any event at which no more than 30 percent of the audience at the event
13 and/or viewing advertising in connection with the event is reasonably expected to be under the age
14 of 21. To be considered an Adult Event, (a) in an enclosed building not visible from a place open
15 to the public and admission to the event must be controlled and limited to those over 21 years of
16 age, or (b) prior to the commencement of the event or advertising for the event, the marijuana
17 business shall present to the city reliable evidence to demonstrate that the event will have no more
18 than 30 percent of the audience, and those viewing advertising for the event, under the age of 21.
19 No event on city property or dedicated trails for which access and visibility cannot be controlled
20 may be considered an Adult Event.

21 Appealing to Minors means any display on the internet, by radio, in print on a sign, or similar
22 presentation visible to individuals under 21 years of age that contains visual or audio or print
23 depictions of cartoon characters, caricatures, consumable products, individuals that seem under 21
24 years of age or engaging in activities not typical of adults. Animals that do not violate the other
25 restrictions in this chapter may be allowed.

26 ~~Business manager means the individual designated by the owner of the recreational marijuana~~
27 ~~business as the person responsible for all operations of the business in the absence of the owner~~
28 ~~from the business premises. Business manager shall include any person with managerial authority~~
29 ~~in the business, and any person that has access to lock or unlock the safe, to lock or unlock the~~
30 ~~business, or set or disarm the alarm.~~

31 Company material means any information printed or transmitted electronically that includes
32 the name and logo of a particular marijuana business(es), and promotes the business or describes
33 marijuana or marijuana-infused product distributed by the business(es). Company material may
34 include promotion of the business to potential employees over the age of 21, or investors, or
35 instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

36 Coupon means a printed voucher or token entitling the holder to a discount for a particular
37 product or service. Coupon does not include showing a government-issued verification of age or
38 military status, or registration for a charitable event, or similar item the showing of which, without

1 providing a separate printing to the business, entitles the holder to a discount for a particular
2 product or service.

3 *Co-located marijuana business* means a medical marijuana wellness center or cultivation
4 facility that held a license from the city on October 22, 2013, that is permitted by the owner of the
5 building and all applicable laws, to divide the licensed ~~medical~~-marijuana business to allow for
6 both a medical and a recreational marijuana wellness center or cultivation facility as separate
7 business premises with separate licenses from the city within the same footprint and owned by the
8 same person as the medical marijuana wellness center or cultivation facility. The licensees with an
9 ownership or financial interest of either part of a co-located marijuana business may not be
10 changed to be different from the other.

11 *Cultivation facility* means a licensed recreational marijuana business that produces and
12 harvests marijuana plants for distribution by a licensed ~~recreational~~-marijuana ~~business~~center or a
13 licensed recreational marijuana infused product manufacturer. Except as included in this
14 definition, a cultivation facility may not operate any production on its premises.

15 *Educational material* means materials prepared by a governmental or non-profit entity that
16 are designed to provide information, facts, instructions, and warnings related to the legal use and
17 consumption of marijuana and marijuana products. Educational materials do not include
18 arguments for or against the legalization of marijuana or encourage the use of marijuana or
19 advertisements, including the name and logo for any marijuana business.

20 *Financier* means any person who lends money or otherwise provides assets to any person
21 applying for a license or who has been issued a license under this chapter. If a financier is an entity
22 rather than an individual, the same disclosure shall be required for each entity with an ownership
23 interest until a managing member that is a natural person is identified. Financier shall not include
24 a bank, savings and loan association, credit union, or industrial bank supervised and regulated by
25 an agency of the state or federal government, or any person in the business of leasing equipment
to marijuana business for which the rental amount does not include any percentage of the business
or its profits.

Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice,
advertisement, or announcement, usually for distribution by hand, for free, either directly to an
individual or by placement on vehicles or other locations. Handbill, leaflet or flyer does not include
educational materials without the name or logo of a marijuana business, or information made
available within the licensed premises of a marijuana business.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado
Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be
considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to Sponsorship of Charitable Events means the printing of the names of all sponsors
of a particular charitable event by the event organizer on advertisements, banners, clothing,
programs or similar items. Incidental to sponsorship of a charitable event; does not include the
placement of a booths or distribution of materials at the event by the marijuana business.

Job fair or educational seminar means an adult event held for the purpose of (a) connecting
persons seeking jobs in a particular industry with employers in that industry or (b) educating others
on matters related to the legal marijuana industry.

1 Keyholder means the individual designated by the owner of the recreational marijuana
2 business as the person responsible for all operations of the business in the absence of the owner
3 from the business premises. Keyholder shall include any person with managerial authority in the
4 business, and any person that has access to lock or unlock the safe, to lock or unlock the business,
5 or set or disarm the alarm.

6

7 Modification of Premises means a change to a marijuana business that requires a building or
8 other permit from the city or changes any part of the plans required as part of the application for
9 the marijuana business license. Modification of premises does not include routine maintenance,
10 including replacement of light bulbs or filters, painting, cleaning or replacement of non-
11 mechanical items such as windows and flooring so long as the maintenance does not result in a
12 change to the plans required as part of the application.

13 Place open to the general public means any property owned, leased, or used by a public entity,
14 and any place on private property open to the public, common areas of buildings, private club,
15 vehicles, those portions of any private property upon which the public has an express or implied
16 license to enter or remain, and any place visible from such places. Place open to the general public
17 shall not include (a) any fenced area of a private residence regardless of whether it can be seen
18 from a place open to the public-, or (b) any enclosed portion of a building not visible from a place
19 open to the public which qualifies as an adult event.

20

21 Promotional items means any item, including printed materials, that contain the name and or
22 logo of a marijuana business and are distributed for free or a minimal cost. Promotional items, or
23 “swag” includes stickers, clothing, tangible goods, and similar items that are intended to expose
24 others to the name or logo of a particular business. Promotional items does not include educational
25 materials.

Recreational marijuana center means a licensed recreational marijuana business that
distributes marijuana to any person or other licensed to recreational marijuana business, infused
product manufacturers or to another recreational marijuana center.

....

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the
growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers,
roots, stalks, and leaves are all connected and in a growing medium. Recreational marijuana plant
shall include immature plants except where specifically excepted in this code. For purposes of
this chapter, any part of the plant removed is considered harvested and no longer part of a
recreational marijuana plant, but marijuana.

Virtually separated marijuana business means a co-located marijuana business that is not
separated into two different premises.

....

Section 14. Section 6-16-3(d), (e), and (i) are amended to read:

6-16-3. - License Required.

1
2 (d) Separate License Required for Each Location. A separate license shall be required for each
3 premise from which a recreational marijuana business is operated. Except as specifically
4 provided in this chapter, nNo two or more different businesses, including recreational
5 marijuana businesses, may be treated as one premise. Unless higher performance is required
6 by applicable law, there must be a minimum of a one-hour fire separation wall between a
7 recreational marijuana business and any adjacent business.

8
9 (e) License Nontransferable. A recreational marijuana business license is not transferable or
10 assignable, including, without limitation, not transferable or assignable to a different
11 premise, to a different type of business (including another marijuana business), or to a
12 different owner or licensee. A recreational marijuana business license is valid only for the
13 owner named thereon, the type of business disclosed on the application for the license, and
14 the location for which the license is issued. The licensees of a recreational marijuana business
15 license are only those persons disclosed in the application or subsequently disclosed to the
16 city in accordance with this chapter. A transfer of a licensed recreational marijuana business
17 shall be permitted in the following circumstance:

- 18 (1) The new owner and all licensees of the business have submitted completed applications
19 and passed a background by the city;
- 20 (2) The new owner is not making changes to any of the plans or conditions that are part of
21 the license; and
- 22 (3) The license transfer location is permitted without the exception of Subsection 6-16-7(c)
23 of this chapter.

24
25 (i) Virtual Separation of Co-located Marijuana Business. A co-located business may be
virtually rather than physically separated if the businesses provide evidence that they have
maintained their respective books and records in compliance with section 9 of this chapter
for the twelve months preceding the application for virtual co-location. For businesses that
have been open for less than twelve months and those who have not complied with Section
9 in the past, the business shall provide evidence satisfactory to the city manager of the
manner in which it will comply with Section 9. One-Time Transfer of Vertically Integrated
Cultivation Facility and Marijuana-Infused Product Manufacturer Operating Within the City.
Any business entity with a license from the city for both a marijuana-infused product
manufacturer and a cultivation facility on November 1, 2015, may transfer one of the licenses
to a different business entity under the following conditions:

- 26 (1) ~~All of the owners and financiers of the transferee business entity are the same as those of~~
27 ~~the transferor business entity and there are not any additional owners or financiers; and~~
- 28 (2) ~~The marijuana licenses for both the marijuana manufacturer and the marijuana cultivation~~
29 ~~facility are in good standing; and~~
- 30 (3) ~~Neither the marijuana manufacturer nor the marijuana cultivation facility have previously~~
31 ~~transferred a city marijuana license under this subsection.~~

1 ~~(j) Until such time as the State of Colorado provides the city with access to criminal history~~
2 ~~information for the purpose of issuing marijuana business licenses, no conversion under~~
3 ~~Subsection (f) or co-location under Subsection (g) of this section shall be approved if there~~
4 ~~is any change in the identity of the individuals required to be listed on the application as~~
5 ~~reported to the city by October 22, 2013, pursuant to this chapter.~~

6

7 Section 15. Section 6-16-4(h), B.R.C. 1981, is amended to read:

8 **6-16-4. - General Provisions.**

9

10 (h) Requirements for Time Periods for Accepting Applications for Conversion to a Recreational
11 Marijuana Business or Co-Location of Marijuana Businesses.

12 (1) ~~No applications for conversion of a medical marijuana business to a recreational~~
13 ~~marijuana business pursuant to Subsection 6-13-3(f) of this chapter shall be accepted~~
14 ~~before January 2, 2014. As a condition of the city accepting an application for conversion~~
15 ~~of a medical marijuana business to a recreational marijuana business, the applicant and~~
16 ~~all licensees shall be the same as those identified for the medical marijuana license and~~
17 ~~affirm that there will be no changes in licensees for the recreational marijuana business.~~
18 ~~If a license is issued, and the business makes any changes in licensees prior to such time~~
19 ~~as the State of Colorado makes criminal history information available for the purpose of~~
20 ~~processing recreational marijuana business licenses, the license may be revoked.~~

21 (2) ~~No applications for conversion to a co-located medical and recreational marijuana~~
22 ~~business pursuant to Subsection 6-13-3(g) of this chapter of a medical marijuana business~~
23 ~~shall be accepted before January 21, 2014. As a condition of the city accepting an~~
24 ~~application for conversion to a co-located marijuana business, the applicant and all~~
25 ~~licensees shall be the same as those identified for the medical marijuana license and~~
affirm that there will be no changes in licensees for the recreational marijuana business.
If a license is issued, and the business makes any changes in licensees prior to such time
as the State of Colorado makes criminal history information available for the purpose of
processing recreational marijuana business licenses, the license may be revoked.

(3) ~~No applications for conversion to a co-located medical and recreational marijuana~~
business pursuant to Subsection 6-13-3(h) of this chapter of a medical marijuana business
within a footprint that is larger than the existing medical marijuana business shall be
accepted before February 3, 2014. As a condition of the city accepting an application for
conversion to a co-located marijuana business, the applicant and all licensees shall be the
same as those identified for the medical marijuana license and affirm that there will be
no changes in licensees for the recreational marijuana business. If a license is issued, and
the business makes any changes in licensees prior to such time as the State of Colorado
makes criminal history information available for the purpose of processing recreational
marijuana business licenses, the license may be revoked.

(4) ~~No applications for a new recreational marijuana business (that is not a conversion from~~
a medical marijuana business pursuant to Subsection 6-16-3(f) of this chapter or a co-

1 ~~located marijuana business pursuant to Subsection 6-16-3(g) of this chapter or a co-~~
2 ~~located marijuana business pursuant to Subsection 6-16-3(h) of this chapter shall be~~
3 ~~accepted before June 1, 2014.~~

3

4 Section 16. Section 6-16-5(6)(C) and (D) and (16), B.R.C. 1981, are amended to read:

5 **6-16-5. - Application; Modification of Premises.**

6

7 (6) An operating plan for the proposed recreational marijuana business, including the
8 following information:

8

9 (C) A neighborhood responsibility plan that demonstrates how the business will fulfill
10 its responsibilities to the neighborhood for effective mitigation of community
11 impacts, including neighborhood outreach, methods for future communication, and
12 dispute resolution.

12 (D) For cultivation facilities and marijuana-infused product manufacturers and
13 marijuana testing facilities, a plan that specifies the methods to be used to prevent
14 the growth of harmful mold and compliance with limitations on discharge into the
15 wastewater system of the city as set forth in Chapter 11-3, "Industrial and
16 Prohibited Discharges," B.R.C. 1981.

14

15 ~~(16) For applications for a marijuana-infused product manufacturer, the location of the~~
16 ~~cultivation facilities which will supply the marijuana for processing in the city owned by~~
17 ~~the licensee. Modifications to Approved Recreational Marijuana Business License. Prior~~
18 ~~to making a modification of a marijuana business that would require a building permit or~~
19 ~~change items required by subsections (6), (7) or (12) of this subsection (a), the licensees~~
20 ~~shall submit to the city and have approved a complete application for modification of~~
21 ~~premises in the form provided by the city.~~

19

20

21 Section 17. Section 6-16-6(a)(15), B.R.C. 1981, is added to read:

22 **6-16-6. - Persons Prohibited as Licensees and Business ManagerKeyholders.**

23 (a) It shall be unlawful for any of the following persons to have an ownership or a financial
24 interest in a recreational marijuana business, and no license provided by this chapter shall be
25 issued to or held by, and no recreational marijuana business shall be managed by:

25

1 (15) Any person applying for a license to operate a marijuana center who has been licensed
2 to operate three other marijuana centers in the city pursuant to either this chapter or
3 chapter 6-14. For purposes of this subparagraph only, one co-located medical and
4 recreational marijuana center is considered one marijuana center.

5

6

7 Section 18. Section 6-16-7(e), (g), and (h), B.R.C. 1981, are amended to read:

8 **6-16-7. - Locations of Recreational Marijuana Businesses.**

9

10 (e) Separation From Schools and Other Facilities.

11 (1) No recreational marijuana center business-license shall be issued for a recreational
12 marijuana center at a location within one thousand feet of any public or private
13 elementary, vocational, or secondary school, or a college, university, or a state licensed
14 day care center, or an addiction recovery facility. Distances shall be measured by the city
15 on official maps as the radius from the closest points on the perimeter of the applicant's
16 property to the closest point of the property of the school or named facility.

17 ~~(2) No license for a recreational marijuana cultivation facility, a marijuana-infused product~~
18 ~~manufacturer, or a marijuana testing facility shall be issued for a location within five~~
19 ~~hundred feet of the real property comprising an elementary, vocational, or secondary~~
20 ~~school, or a public or private college, junior college, or university, or a state licensed day~~
21 ~~care, or an addiction recovery facility. This restriction shall not apply to a medical~~
22 ~~marijuana cultivation facility that had submitted an application or held a license by the~~
23 ~~city on October 22, 2013.~~

24

25 (g) Limitations on Recreational Marijuana Centers and Co-Located Marijuana Center. The
following shall be the minimum requirements for a recreational marijuana center and a co-
located marijuana center:

(1) The area of the business is less than or equal to three thousand square feet, and the
restricted area components of the required security and all paper and electronic records
are one thousand square feet or less;

~~(2) The business does not sell or distribute anything other than marijuana and marijuana
products or marijuana accessories except as permitted by Section 6-16-8(p)(1)(and~~

~~(2)(3) There is a separate reception area for verification of age.~~

(h) Limitations on Recreational Marijuana-Infused Product Manufacturers and Marijuana
Testing Facilities. The area of the premises may not be more than fifteen thousand square
feet.

....

....

1 Section 19. Section 6-16-8(b), (e), (f), (j), (l), (m), (p), (v), and (w), B.R.C. 1981, are
2 amended, and new subsections (x), (y) and (z) are added, to read:

3 **6-16-8. - Requirements Related to Operation of Recreational Marijuana Businesses.**

4
5 (b) Restriction on Access to Business.

6 (1) No person under twenty-one years of age shall be in the business premises. No person
7 shall be allowed entry into the business premises area without showing a valid picture
8 identification. Recreational marijuana centers ~~The business~~ shall have an electronic
9 scanner able to verify the legitimacy of the identification and maintain records for
10 enforcement, as approved by the city manager. If a person does not have a valid picture
11 identification ~~that the electronic scanner recognizes as legitimate as verification that the~~
12 person is at least twenty-one years of age, the owner or ~~business manager~~ keyholder on
13 the premises shall require that the person leave the business and any surrounding area
14 possessed or controlled by the business. In the event the person has a valid government-
15 issued proof of age that cannot be scanned, such as a passport or military ID, the business
16 shall be allowed access so long as the ID reasonably appears to be accurate and valid.

17 (2) No person, other than an employee or contractor of the business or a visitor shall be
18 permitted in the restricted area of the business. For purposes of this subsection, a visitor
19 means a person that is accessing the restricted area for educational purposes-. No access
20 to the restricted area may be permitted by tourists or for compensation. The business
21 must require that all visitors comply with all requirements for access to limited access
22 areas as required by the Colorado Marijuana Enforcement Division. The log required
23 shall be maintained on the business premises and available for inspection upon request
24 by the city.

25
26 (e) Owner or ~~Business Manager~~ Keyholder Required on Premises. No recreational marijuana
27 business shall be managed by any person other than the licensee or the ~~business~~
28 ~~manager~~ keyholder listed on the application for the license or a renewal thereof. Such licensee
29 or ~~business manager~~ keyholder shall be on the premises and responsible for all activities
30 within the licensed business during all times when the business is open or in the possession
31 of another person. In the event the licensee intends to employ a ~~business manager~~ keyholder
32 that was not identified on the license or renewal application, the licensee shall report the
33 name of such ~~business manager~~ keyholder to the city, and such ~~business manager~~ keyholder
34 shall submit to the city, at least thirty days prior to commencing serving as the ~~business~~
35 ~~manager~~ keyholder, an application containing all of the information required by this chapter
36 and on the license application. Such licensee shall report to the city any change in ~~business~~
37 ~~manager~~ keyholders at least thirty days prior to employing an additional ~~business~~
38 ~~manager~~ keyholder, and no more than five days after a ~~business manager~~ keyholder is released
39 from such position. In the event the licensee submits a completed application for the new
40 keyholder with a copy of a valid Occupation Key B badge issued by the state Marijuana

1 Enforcement Division, the applicant may work as a keyholder for the licensee upon
2 submission of the application up until final city determination is made on such application.

- 3 (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no sale
4 or other distribution of marijuana shall occur upon the premises or via delivery from the
5 premises, between the hours of 107 p.m. and 8 a.m. Provided however, in the event that a
6 planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may
7 be returned to the center.

8

- 9 (j) Limitations on Inventory. The recreational marijuana business shall not maintain any more
10 marijuana within the premises than the amount stated on the business' license application to
11 the State of Colorado and city. No plants shall be located in a recreational marijuana center
12 or a marijuana-infused product manufacturer or a marijuana testing facility. In addition, the
13 establishment shall not maintain any more marijuana within the restricted area than:

- 14 (1) Cultivation facility: one thousand plants, provided, however, a cultivation facility may
15 have more than one thousand plants, not including immature plants, if the licensee
16 provides an additional enforcement fee in an amount of \$1 per plant over one thousand
17 plants. Such fee shall be payable annually at the time of licensing and renewal; or
18 (2) MIP: six hundred pounds of marijuana that has not been incorporated into a product and
19 one hundred fifty pounds of marijuana-infused products; or
20 (3) Testing facility: one hundred pounds of raw marijuana and one hundred pounds of
21 marijuana-infused product.

22

- 23 (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed
24 marijuana business, aAll sales of recreational marijuana shall be made in person in the
25 restricted area of a recreational marijuana center. All marijuana sales shall be in person,
directly to the purchaser. No marijuana sales shall be made via telephone, internet, or other
means of remote purchase. Deliveries of marijuana shall occur only in person to the
purchaser at the time of purchase in the restricted area of a recreational marijuana center.

- (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to
transport recreational marijuana, except as specifically allowed by applicable law, unless the
recreational marijuana being transported meets the following requirements:

- (1) All marijuana-infused products are hand-packaged, sealed, and labeled as provided in
this chapter and the products stored in closed containers that are labeled as provided in
this section;
- (2) All recreational marijuana in a usable form is packaged and stored in closed containers
that are labeled as provided in this section;
- (3) Each container used to transport recreational marijuana is labeled with the amount of
recreational marijuana or marijuana-infused products, or the number and size of the
plants, in the container. The label shall include the name and address of the recreational
marijuana business that the recreational marijuana is being transported from, and the
name and address of the recreational marijuana business that the recreational marijuana

1 is being transported to. The label shall be shown to any law enforcement officer who
2 requests to see the label;

3 (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be
4 transported with proper bill of sale completed before transport only to another
5 recreational marijuana business;

6 (A) ~~From a cultivation facility to a recreational marijuana center or marijuana-infused product~~
7 ~~manufacturer, and which recreational marijuana business is owned by the same person~~
8 ~~who owns the cultivation facility;~~

9 (B) ~~From a cultivation facility to another recreational marijuana cultivation facility;~~

10 (C) ~~Between one recreational marijuana center to another center; or~~

11 (D) ~~Between a marijuana-infused product manufacturer and a medical or recreational~~
12 ~~marijuana center.~~

13 (5) The recreational marijuana must be accompanied by the manifest ~~and confirmation email~~
14 ~~from the State of Colorado~~ in accordance with state requirements for transportation of
15 recreational marijuana;

16 (6) The recreational marijuana must be accompanied by the email receipt confirmation from
17 the Boulder Police Department in accordance with the rules therefor established by the
18 police department;

19 (7) When determining and reporting the route for delivery, licensees should select the most
20 direct route that provides efficiency and safety; and

21 (8) Transport may occur only during the hours allowed for operation of the center.

22

23 (p) Advertisement. A recreational marijuana business may not advertise in a manner that is
24 misleading, deceptive, false, or designed to appeal to minors. The following conditions shall
25 apply:

(1) Except as otherwise provided in this paragraph, it shall be unlawful for any person
licensed under this chapter or any other person to advertise any recreational marijuana or
recreational marijuana-infused product anywhere in the city where the advertisement is
in plain view of, or in, a place open to the general public, including advertising utilizing
any of the following media: any billboard or other outdoor general advertising device as
defined by the zoning code; any sign mounted on a vehicle; any handheld or other
portable sign; or any handbill, leaflet, or flier directly handed to any person in a public
place, left upon a motor vehicle, or posted upon any public or private property. The
prohibition set forth in this paragraph shall not apply to:

(A) Any sign located on the same zone lot as a recreational marijuana center which exists
solely for the purpose of identifying the location of the recreational marijuana center
and which otherwise complies with this code and any other applicable city laws and
regulations, which sign includes only the name and address of the center;

(B) Any advertisement contained within a newspaper, magazine, or other periodical of
general circulation within the city or on the internet, which may include coupons;

1 (C) Any products marked with the name or logo of ~~the licensed recreational marijuana~~
2 ~~center~~ marijuana business, including wearable or non-consumable merchandise,
3 packaging in which marijuana is sold, or on recreational marijuana accessories sold;
4 or

5 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
6 recreational marijuana ~~center~~ or a recreational marijuana infused products
7 manufacturer or a marijuana testing facility business.

8 (E) A booth at a job fair or educational seminar that is an adult event where the only items
9 distributed are company-related or educational materials, and no other items are
10 distributed shown or sold.

11 (F) A booth at an adult event where the only items distributed are company or educational
12 or materials information regarding marijuana consumption that do not contain any
13 advertising, or any name or logo of the particular business, and no other items are
14 distributed, shown or sold.

15 (2) It is an affirmative defense if a recreational marijuana business employee provided
16 another individual, upon request, a business card for the purpose of providing that
17 person's name and business affiliation, including, without restriction, title, mailing
18 address, email address, and telephone number;

19 (3) No marijuana business shall distribute or allow the distribution of any marijuana or
20 products marked with its name or logo without charge within a marijuana business or any
21 place open to the public for the purpose of promotion or advertising except as permitted
22 in subsection (1)(E) and (F) of this section (p);

23 (4) No marijuana business shall distribute or allow the distribution of any coupon or similar
24 writing, electronically or on paper, which purports to allow the bearer to exchange the
25 same for any marijuana product either free or at a discount except as permitted in
subsection (1)(B) of this section (p); and

(5) No recreational marijuana business shall sell, distribute, or provide, or allow the sale,
distribution, or provision of, products marked with its name or logo, in child sizes,
designed for the use of minors, or which is misleading, deceptive, false, or appealing to
minors.

....

(v) Scanner for Proof of Age. The recreational marijuana center ~~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 that contains all of the components approved by the
city manager. For legitimate identifications that cannot be scanned, including passports,
military IDs and other lawful government issued identification, use of the electronic ID
scanner is not required, but the business shall be responsible for verifying that the
identification provided is reliable verification of the age of the person.

....

(x) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has
reasonable cause to believe that a person is under twenty-one ~~one~~ years of age and is

1 exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain
2 any marijuana or marijuana product, the licensee or employee shall be authorized to
3 confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age
4 confiscated shall be turned over to -the Boulder Police Department

5 (y) Virtually-separated centers or cultivation facilities. A virtually-separated marijuana business
6 shall maintain separate marijuana business licenses, with separate books, records and
7 inventories of all transactions. For purposes of sales, use and excise tax, all transactions shall
8 be considered recreational marijuana unless the business can prove that the transaction was
9 for medical marijuana. A virtually-separated marijuana business may not allow entrance to
10 anyone under 21 years of age on the premises of the business. The floor plan for a virtually
11 separated center shall depict the separate sales counters, display and storage areas for
12 recreational and medical marijuana. A violation of any of the requirements of this code for
13 a virtually separated business is a public safety violation.

14 (z) Sale of Immature Plants. A medical marijuana center may not sell immature plants, unless
15 (a) no more than six (6) immature plants are sold to any one customer, and, (b) the immature
16 plants are not transferred from the medical marijuana cultivation facility to the center until
17 the day the patient is to pick up the immature plants and no immature plants are maintained
18 at the center overnight. The business may require a deposit with any pre-orders.

19

20 Section 20. Section 6-16-9, B.R.C. 1981, is amended to deleted subsection (b) regarding
21 separate bank accounts.

22 Section 21. Section 6-16-10 and Subsection (b), B.R.C. 1981, are amended to read:

23 **6-16-10. - Requirements Related to Monitoring and Security of Restricted Areas and**
24 **Inventory.**

25 All components of the security plan submitted with the application, as it may be amended,
shall be in good working order, monitored, and secured twenty-four hours per day. Except for a
co-located marijuana business that is virtually separated, a separate security system is required
for each business. The security plan must include, at a minimum, the following security measures:

....

(b) Use of Safe for Storage. The recreational marijuana business shall install and use a safe for
storage of any processed marijuana and cash on the premises when the business is closed to
the public. The safe shall be incorporated into the building structure or securely attached
thereto. For marijuana-infused products or marijuana being tested in a testing facility that
must be kept refrigerated or frozen, the business may lock the refrigerated container or
freezer in a manner authorized by the city in place of use of a safe, so long as the container
is affixed to the building structure.

1

2

3 Section 22. Section 6-16-11(b), B.R.C. 1981, is amended to read:

4 **6-16-11. - Requirements for Public Health and Labeling.**

5 ...

6 (b) Labeling and Packaging Requirements. All recreational marijuana sold or otherwise
7 distributed by the licensee shall be packaged and labeled in a manner that ~~advises the~~
8 ~~purchaser that it contains marijuana and specifies the amount of marijuana in the product,~~
9 ~~and that the marijuana is intended for use solely by a person lawfully possessing recreational~~
10 ~~marijuana. The label shall be~~ is in compliance with all applicable requirements of the State
11 of Colorado and any other applicable law.

9

10

11 Section 23. Section 6-16-13(24), (37), and (38) are amended and subsections (39), (40),

12 (41), (42), and (43) are added to read:

13 **6-16-13. - Prohibited Acts.**

14

15 (24) Distribute a marijuana plant to any person, except as provided in this chapter for
16 immature plants.

17

18 (37) Distribute, or contract to distribute, marijuana using any freight or package service,
19 community rideshare, or other commercial transportation network, not including the
20 United States Postal Service, unless such transporter has a license from the state to
21 transport marijuana.

22 (38) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol,
23 acetone, heptane, hexane, or any other volatile materials used in the production of
24 solvent-based marijuana concentrate, in the same premise as marijuana without a license
25 from the city as a marijuana-infused product manufacturer or a marijuana testing facility.

(39) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other
periodical of general circulation within the city or on the internet.

(40) Failure to provide a copy or record of a coupon authorized under this chapter upon request
of an authorized city employee.

1 (41) Failure to confiscate fraudulent proof of age. It shall be an affirmative defense if the
2 person reasonably believed that attempts to confiscate a fraudulent proof of age would
3 cause a threat to any person or disruption to the business.

4 (42) Failure to post the premises during a suspension.

5 (43) Distribute any consumable product, other than bottled water, that is not a marijuana-
6 infused product.

7

8

9 Section 24. Section 6-16-14, B.R.C. 1981, is amended add a new subsection (e) to read:

10 **6-16-14. - Suspension or Revocation of License; Imposition of Fines.**

11

12 (e) In the event of the suspension of a marijuana business license, the marijuana business, during
13 the suspension period:

14 (1) Shall post two notices as provided by the Marijuana Licensing Authority, in conspicuous
15 places, one on the exterior and one on the interior of its premises for the duration of the
16 suspension; and

17 (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers
18 into the licensed premises.

19

20 Section 25. Section 4-20-64, B.R.C. 1981, is amended to read:

21 **4-20-64. - Medical Marijuana Businesses.**

22

23 (h) Modification of Premises – as classified in Table 1:..... ~~3,000.00~~
24 Major..... \$1,100
25 Minor.....\$250
MIP Minor.....\$500
MIP Major.....\$1,500

If a proposed modification does not fit precisely into one of the categories on the table, of
major and minor modifications adopted by city manager rule, the fee due shall be the same as the
most similar category.

....

....

1 Section 26. Section 4-20-67, B.R.C. 1981, is amended to read:

2 **4-20-67. - Recreational Marijuana Businesses.**

3 Application and license fees for recreational marijuana businesses shall be up to the
4 following amounts:

5

- 6 (9) Modification of Premises..... ~~3,000.00~~
- 7 Major..... \$1,100
- 8 Minor.....\$250
- 9 MIP Minor.....\$500
- 10 MIP Major.....\$1,500

11 If a proposed modification does not fit precisely into one of the categories on the table of
12 major and minor modifications adopted by city manager rule, the fee due shall be the same as the
13 most similar category.

14 Section 27. The city council finds this ordinance is necessary for the immediate
15 preservation of public peace, health, safety, and property justifying the adoption of this ordinance
16 as an emergency measure.

17 Section 28. An emergency exists in that marijuana businesses and the Marijuana Advisory
18 Panel have been working and planning on these changes for a long period of time, the Panel's
19 process and the city's adoption process have been unavoidably delayed and putting these
20 provisions in effect as soon as possible will allow the businesses to finalize planning and budgeting
21 for 2017 and the city to implement changes to forms and procedures without further delay into
22 2017.

23 Section 29. The City Council deems it appropriate that this ordinance be published by title
24 only and orders that copies of this ordinance be made available in the office of the city clerk for
25 public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 15th day of November, 2016.

3
4
5 _____
Suzanne Jones, Mayor

6 Attest:

7
8 _____
Lynnette Beck, City Clerk

9
10 READ ON SECOND READING, PASSED ON EMERGENCY MEASURE BY TWO-
11 THIRDS OF COUNCIL MEMBERS PRESENT, ADOPTED, AND ORDERED PUBLISHED
12 BY TITLE ONLY this 6th day of December, 2016.

13
14 _____
Suzanne Jones, Mayor

15 Attest:

16
17 _____
Lynnette Beck, City Clerk

**CREATION OF A CHARTER FOR A MARIJUANA ADVISORY PANEL FOR
ANALYSIS OF, SOLICITATION OF PUBLIC INPUT ON
AND DISCUSSION OF POSSIBLE CHANGES TO CITY OF BOULDER
MARIJUANA CODE PROVISIONS**

This is a Charter for a committee for analysis of, solicitation of public input on and discussion of possible changes to the City of Boulder code provisions.

1. The committee shall be appointed by the City manager with the advice and consent of the city council to provide a balanced representation of the variety of interests related to medical and recreational marijuana.
2. The committee shall include, but not be limited to, the following members:
 - a. Representatives of marijuana consumers, including both recreational and medical users.
 - b. A representative of the Boulder Valley School District.
 - c. A representative of the University of Colorado.
 - d. Representatives to provide physical and mental health perspectives, including youth development theory and best practices in harm reduction/health promotion.
 - e. A representative of the Chamber of Commerce.
 - f. Representatives of marijuana businesses, sufficient to represent the interests of businesses engaged in businesses associated with medical marijuana, recreational marijuana, cultivation, retail sales and infused products manufacturing.
 - g. An attorney experienced in representing marijuana businesses.
 - h. A person familiar with state regulations, preferably a person from the state marijuana enforcement division, who, if unable to attend all meetings, may be an ex-officio member and not counted toward the limit on the number of members.
3. One person may represent multiple interests described above. The committee shall have no more than 11 members.
4. All meetings of the committee shall be held only after public notice of the date, time and place.
5. All meetings shall be open to the public. The committee shall allow time for public comment at each meeting.

6. The city manager and the city attorney are directed to provide staff support to facilitate the committee's work.

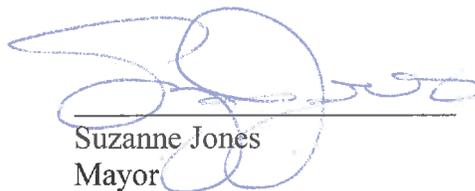
7. The city shall provide a professional facilitator to assist with the committee's work at the outset. The committee shall decide whether a facilitator is necessary at future meetings.

8. The committee shall provide regular updates to the city council about the committee's work. The committee is encouraged to prioritize time-sensitive issues and provide council with any appropriate recommendations on such matters during the first quarter of 2016.

9. The committee shall review both state regulations and city code to determine what specific city code provisions would be appropriate.

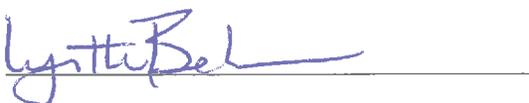
10. Council intends that the committee will complete its work by the end of June 2016.

APPROVED this 5 day of January, 2016.



Suzanne Jones
Mayor

ATTEST:



City Clerk

MARIJUANA ADVISORY PANEL MEMBERS LIST

Facilitator: Heather Bergman

Name
Jan Cole, President Kate Thomson Skinny Pineapple Inc.
Leisha Conners-Bauer, Director Community Health Wardenburg Health Services University of Colorado at Boulder
Heath Harmon, Director of Health Divisions Boulder County Public Health Administration
Robert T. Hoban, Managing Partner Hoban & Feola, LLC
Travis Howard Health Services, LLC d/b/a Green Dream Cannabis
Lewis Koski, Deputy Senior Director, Enforcement Colorado Department of Revenue
Alana Malone, Founder and President Green Dot Labs
Andrea Meneghel, Public Affairs Director Boulder Chamber of Commerce
William Rigler, Director of University Relations Naropa University
Teri Robnett, Founder/Executive Director Cannabis Patients Alliance
Jane Theodore, Private Citizen
Andrew Tucker, Director of Student Support Boulder Valley School District

Chapter 6-14 - MEDICAL MARIJUANA CODE

6-14-1. - Legislative Intent and Purpose.

- (a) Legislative Intent. The city council intends to regulate the use, acquisition, cultivation, production, and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment").
 - (1) The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver. The regulations are intended to apply to all medical marijuana operations in the city whether by a patient or caregiver under the Medical Marijuana Amendment, or any medical marijuana business permitted under the state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and the Code is intended to permit medical marijuana cultivation where it will have a minimal impact.
 - (2) Use, distribution, cultivation, production, possession, and transportation of medical marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by federal law.
 - (3) The regulations for medical marijuana uses are not adequate at the state level to address the impacts on the city of medical marijuana, making it appropriate for local regulation of the impacts of medical marijuana uses.
 - (4) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
 - (5) This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have medical marijuana in the city.
 - (6) Medical marijuana is a heavily regulated industry in the city, all licensees are assumed to be fully aware of the law, the city shall not therefore be required to issue warnings before issuing citations for violations of this chapter.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the city by prescribing the manner in which medical marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:
 - (1) Provide for a means of cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the Medical Marijuana Amendment.
 - (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
 - (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas.
 - (4) Impose fees to cover the cost to the city of licensing medical marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program.
 - (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter.
 - (6) Create regulations that address the particular needs of the patients and residents of the city and coordinate with laws that may be enacted by the state regarding the issue.
 - (7) Facilitate the implementation of the Medical Marijuana Amendment without going beyond the authority granted by it.

- (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow medical marijuana.
 - (9) Issue medical marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials.
 - (10) Protect public safety and residential areas by limiting the areas of the city where more than six medical marijuana plants may be grown.
 - (11) Exclude from the definition of a medical marijuana business the private possession, production, and medical use of marijuana by an individual patient or the private possession, production, distribution, and medical use of marijuana by an individual caregiver for one patient, in the residence of the patient or caregiver, to the extent permitted by Article XVIII, Section 14 of the Colorado Constitution.
- (c) Relationship to State Law. The provisions in this chapter that are different from the state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by § 12-43.3-305, C.R.S., and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply on all matters authorized in § 12-43.3-101, et seq., C.R.S., and all matters of local concern.
- (d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under § 12-43.3-106, C.R.S.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); 8081 (2015)

6-14-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Addiction recovery facility shall have the same meaning as set forth in Section 9-16-1, B.R.C. 1981.

Adult Event means any event at which no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21. To be considered an Adult Event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over 21 years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than 30 percent of the audience, and those viewing advertising for the event, under the age of 21. No event on city property or dedicated trails for which access and visibility -cannot be controlled may be considered an Adult Event.

Advertise means the act of drawing the public's attention, whether on print or on the internet, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

Appealing to Minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under 21 years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under 21 years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

~~Business manager~~Keyholder means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. ~~Business manager~~Keyholder shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or disarm the alarm.

Company material means any information printed or transmitted electronically that includes the name and logo of a particular marijuana business(es), and promotes the business or describes marijuana or marijuana-infused product distributed by the business(es). Company material may include promotion of the business to potential employees over the age of 21 or investors, or instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

Coupon means a printed voucher or token entitling the holder to a discount for a particular product or service. Coupon does not include showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.

Cultivation or cultivate means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling, or relabeling of a usable form of marijuana.

Cultivation facility or optional premises means a licensed medical marijuana business that ~~is owned by the same owner as a medical marijuana center~~ and produces and harvests medical marijuana plants for a medical use for distribution by ~~such a licensed medical marijuana business center~~. Except as included in this definition, a cultivation facility may not operate any production on its premises.

Distribute or distribution means the actual, constructive, or attempted transfer, delivery, sale, or dispensing to another, with or without remuneration.

Educational material means materials prepared by a governmental or non-profit entity that are designed to provide information, facts, instructions, and warnings related to the legal use and consumption of marijuana and marijuana products. Educational materials do not include arguments for or against the legalization of marijuana or encourage the use of marijuana or advertisements, including the name and logo for any marijuana business.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 12-46-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. Financier shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits.

Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. Handbill, leaflet or flyer does not include educational materials without the name or logo of a marijuana business, or information made available within the licensed premises of a marijuana business.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to Sponsorship of Charitable Events means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs, or similar items. Incidental to sponsorship of charitable events does not include the placement of a booths or distribution of materials that does not list or is for the use of all sponsors of the event.

Job fair or educational seminar means an adult event held for the purpose of (a) connecting persons seeking jobs in a particular industry with employers in that industry or (b) educating others on matters related to the legal marijuana industry.

Keyholder means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner from the business

premises. Keyholder shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or disarm the alarm.

Licensee means the medical marijuana business named on the medical marijuana business license, and all individuals named in the medical marijuana business license application or later reported to the city, including without limitation, owners, ~~business manager~~keyholders, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a medical marijuana business.

Mall means the downtown Boulder Business Improvement District boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by ;hn0; Ordinance No. 4022, adopted February 18, 1975.

Malt, vinous, and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 12-47-108, C.R.S.

Marijuana, for this Chapter 6-14, means:

- (1) The same as the term "usable form of marijuana" as set forth in the Medical Marijuana Amendment; or
- (2) May be more fully defined in any applicable state law or regulation.

Marijuana business means a recreational marijuana business or a medical marijuana business.

Marijuana establishment shall have the same meaning as marijuana establishment in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Marijuana warehouse means a marijuana establishment that is not a licensed medical marijuana business or a licensed recreational marijuana business. No marijuana warehouses are allowed in the city.

Medical marijuana means any marijuana intended for medical use which meets all requirements for medical marijuana contained in this chapter, the Medical Marijuana Amendment, and any other applicable law.

Medical marijuana business means (i) any person that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or two ounces of a usable form of marijuana for medical use, or (ii) any person that produces any amount of medical marijuana. The term medical marijuana business shall not include the private possession, or medical use of no more than six plants, or two ounce of a useable form of marijuana by a patient or caregiver in the residence of the patient or caregiver.

Medical marijuana center means a licensed medical marijuana business that distributes medical marijuana to patients or primary caregivers or to other licensed medical marijuana businesses~~infused product manufacturers or to another medical marijuana center.~~

Medical marijuana-infused product means a marijuana-infused product as defined in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Medical marijuana-infused product manufacturer means a licensed marijuana-infused product manufacturer as defined in Chapter 6-16, "Recreational Marijuana," B.R.C. 1981.

Medical marijuana local licensing authority means the city manager. The city manager shall be the local licensing authority for the purpose of any state law that requires the city to designate a local licensing authority.

Medical marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves. Medical marijuana plant shall include immature plants except where specifically excepted in this code. For purposes of this chapter, the portion of a medical marijuana plant harvested from the plant or converted to a usable form of medical marijuana for medical use is not considered part of the plant upon harvesting.

Medical use shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Minor means a person under twenty-one years of age.

Mixed-use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of Premises means a change to a marijuana business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the marijuana business license. Modification of premises does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Patient shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Place open to the general public means any property owned, leased, or used by a public entity, and any place on private property open to the public, common area of buildings, private clubs, vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. Place open to the general public shall not include (a) any fenced area of a private residence regardless of whether it can be seen from a place open to the public, or (b) any enclosed portion of a building not visible from a place open to the public which qualifies as an adult event.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a medical marijuana business shall be considered in possession of the medical marijuana business at all times. ~~The business manager~~keyholder of a medical marijuana business shall be considered in possession of the medical marijuana business at all times that the ~~business manager~~keyholder is on the premises of the business or has been designated by the owner as the ~~business manager~~keyholder in the absence of the owner in accordance with this chapter.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area.

Primary caregiver shall have the same meaning as is set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging, or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. Production shall not include packaging or repackaging, labeling, or relabeling of a usable form of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Promotional items means any item, including printed materials, that contain the name and or logo of a marijuana business and are distributed for free or a minimal cost. Promotional items, or "swag" includes stickers, clothing, tangible goods, and similar items that are intended to expose others to the name or logo of a particular business. Promotional items does not include educational.

Restricted area means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

Safe means a metal box, attached to the building structure, capable of being locked securely, constructed in a manner to prevent opening by human or mechanical force, or through the use of common

tools, including but not limited to hammers, bolt cutters, crow bars or pry bars. The city manager may approve security devices such as vaults and strong rooms that are functionally equivalent to safes.

University Hill commercial area means the area described as the University Hill General Improvement District in Appendix 8-A of Title 8 of this code.

Violation of any law means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013); 7970 (2014); 8081 (2015)

6-14-3. - License Required.

- (a) License Required. It shall be unlawful for any person to operate a medical marijuana business without obtaining a license to operate pursuant to the requirements of this chapter.
- (b) Additional Licenses and Permits May Be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.
- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premises from which a medical marijuana business is operated. Except as specifically provided in this chapter, ~~no~~ two or more different medical marijuana businesses may be treated as one premises. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marijuana business and any adjacent business.
- (e) License Nontransferable; Exceptions. A medical marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business, or to a different owner or licensee. A medical marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed medical marijuana business shall be permitted in the following circumstance:
 - (1) The new owner and all licensees of the business have submitted completed applications and passed a background check ~~previously been approved by the city; as part of another licensed medical marijuana business;~~
 - (2) The new owner is not making changes to any of the plans or conditions that are part of the license; ~~applies for and receives a new medical marijuana business license for the new location; and~~
 - (3) The license transfer location is permitted without the exceptions of Subsection 6-14-7(c) or (f) of this chapter.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012)

6-14-4. - General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to medical marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1, the provisions of this chapter shall control for medical marijuana business licenses.
- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court, for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove medical marijuana of any medical marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Reserved.
- (f) Forfeiture of License. In the event that a medical marijuana business does not commence operations within thirty days of issuance of a license from the city, the license shall be deemed forfeited and the business may not commence operations.
- (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a medical marijuana business unless the tenant has a valid medical marijuana business license or has applied for and not been denied a medical marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a medical marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected medical marijuana business is located to determine whether any marijuana is on the premises.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 8081 (2015)

6-14-5. - Application; Modification of Premises.

- (a) Application Requirements. An application for a medical marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
 - (1) Name and address of the owner or owners of the medical marijuana business in whose name the license is proposed to be issued.
 - (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
 - (B) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
 - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity, and contact information for that person.
 - (2) Name and address of:

- (A) Any ~~business manager~~keyholders of the medical marijuana business, if the ~~business manager~~keyholder is proposed to be someone other than the owner;
 - (B) All financiers of the medical marijuana business; and
 - (C) All agents of the medical marijuana business who either (i) act with managerial authority, (ii) provide advice to the medical marijuana business for compensation, or (iii) receive periodic compensation totaling \$1,000 or more in a single year for services related to the medical marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of medical marijuana.
- (3) A statement of whether or not any of the named owners, members, ~~business manager~~keyholders, financiers, primary caregivers, or persons named on the application have been:
- (A) Denied an application for a medical marijuana business license pursuant to this chapter, for a recreational marijuana license pursuant to Chapter 6-16, "Recreational Marijuana," B.R.C. 1981, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Denied an application for a liquor license pursuant to title 12, article 47 or article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.
 - (C) In violation of any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.
 - (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.
- (4) Proof of ownership or legal possession of the restricted area for a medical marijuana business for the term of the proposed license. If the medical marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
- (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
- (6) An operating plan for the proposed medical marijuana business, including the following information:
- (A) A description of the products and services to be provided by the medical marijuana business.
 - (B) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the medical marijuana business is to be located;
 - (ii) The principal uses of the floor area depicted on the floor plan, including, but not limited to, the areas where nonpatients will be permitted, private consulting areas, storage areas, retail areas, and restricted areas where medical marijuana will be located;
 - (iii) Areas where any services other than the distribution of medical marijuana are proposed to occur in the premises; and
 - (iv) The separation of the areas that are open to persons who are not patients from those areas open to patients.
 - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.

- (D) For cultivation facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.
- (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule, or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four hours' notice to the applicant prior to such disclosure.
- (8) A lighting plan showing the lighting outside of the medical marijuana business for security purposes and compliance with applicable city requirements.
- (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the medical marijuana business is located, the proximity of the property to any school or state licensed child care center, to any other medical marijuana business, or to any residential zone district.
- (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, ~~business manager~~keyholders, financiers, and caregivers employed by or under contract to provide services to the medical marijuana business, including all individuals who have an interest as described herein of any portion of the medical marijuana business, directly or as an agent, or a member, partner, or officer of a corporation, partnership, association, or company.
- (11) A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
- (12) A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana businesses that grow medical marijuana plants, 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 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.
- (13) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials, and how such materials will be stored.
- (14) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.
- (15) Modifications to Approved Medical Marijuana Business License. Prior to making an modification of a marijuana business that would require a building permit or change items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit to the city and have approved a completed application for modification of premises in the form provided by the city. No applications for new medical marijuana businesses shall be accepted between November 1, 2013, and May 31, 2014.
- (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, ~~business manager~~keyholder, financier, primary caregiver, or other person named on the application contains information regarding violations of any law or previous denial or revocation of a license, that person

may include with the license application any information regarding such violation, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, and other regulatory licenses held without compliance violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.

- (c) Fee Required. Any application for a medical marijuana business permit shall be accompanied by the application fee, criminal background check fee, the annual license fee as required by Section 4-20-64, "Medical Marijuana Businesses," B.R.C. 1981, and any other applicable fees.
- (d) Inspection. An inspection of the proposed medical marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.
- (e) Investigation. For purposes of § 12-43.3-303(2), C.R.S., the investigation of the application by the city is not complete until the city manager has (i) determined the application is complete, (ii) determined the medical marijuana business is prepared and able to operate in compliance with all applicable laws, (iii) conducted an inspection of the business, (iv) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions, and (v) prepared the documentation necessary to support the decision made by the manager on the application.
- (f) Approval Requirements. The city manager may issue a medical marijuana business license if the inspection, background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, and is prepared to operate the business with other owners and managers as set forth in the application, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation, or that contains any false or incomplete information. The conditions of an approval of a medical marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013)

6-14-6. - Persons Prohibited as Licensees and ~~Business Manager~~Keyholders.

- (a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no license provided by this chapter shall be issued to or held by, and no medical marijuana business shall be managed by:
 - (1) Any person until the annual fee for the license has been paid;
 - (2) Any person not of good moral character;
 - (3) Any corporation, any of whose officers, directors, or stockholders are not of good moral character;
 - (4) Any partnership, association, or company, any of whose officers or members holding an interest therein, or a managing member, are not of good moral character;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;
 - (6) Any person, unless such person's character, record, and reputation are satisfactory to the city manager;

- (7) Any natural person who is under twenty-one years of age;
 - (8) Any person who operates or manages a medical marijuana business contrary to the provisions of this chapter, any other applicable law, rule, or regulation or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;
 - (9) A licensed physician making patient recommendations;
 - (10) A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
 - (11) A sheriff, deputy, 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 as defined in § 25-1.5-106(2), C.R.S., has been revoked by the state health agency;
 - (13) A person who is a licensee for a location that is currently licensed as a retail food establishment or a wholesale food registrant; or
 - (14) Any person applying for a license to operate a medical marijuana center who has been licensed to operate ~~three other marijuana centers/businesses in the city pursuant to either this chapter or chapter 6-16~~another medical marijuana center in the city pursuant to this chapter. For purposes of this subparagraph only, one co-located medical and recreational marijuana center is considered one marijuana center.
- (b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:
- (1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;
 - (2) Verification of or lack of ability to verify items disclosed by the individual;
 - (3) When an individual has a history of violation of any law or a history including denial, revocation, or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse, or other violations of any laws that may directly affect the individual's ability to operate a medical marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;
 - (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a medical marijuana business;
 - (5) Rules adopted by the manager to implement this chapter;
 - (6) Law, rules, and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and
 - (7) Any additional information the manager may request of the individual if the individual has a violation of any laws, an administrative or judicial finding of violation of laws regarding use of alcohol or controlled substances or items disclosed by the individual which require additional information in order for the manager to make a determination regarding issuance of the license.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7929 (2013)

6-14-7. - Locations of Medical Marijuana Businesses.

- (a) Fixed Location Required. It shall be unlawful to operate a medical marijuana business or to grow medical marijuana outside of an enclosed building. All medical marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows medical marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.
- (b) Location - Permitted Use in Zoning District. A medical marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located as follows:
 - (1) As "personal services" for a medical marijuana center;
 - (2) As "greenhouse/nursery" for a cultivation facility; or
 - (3) As "manufacturing \leq 15,000 square feet" for a cultivation facility, for a medical marijuana-infused product manufacturer, or for a marijuana testing facility.
- (c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013.
- (d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any person to permit retail sales within a medical marijuana business that is a cultivation facility or medical marijuana-infused product manufacturer.
- (e) Distribution by Primary Caregiver. It shall be unlawful for any person to distribute medical marijuana to a patient except (1) directly to a patient upon the restricted area, or (2) via personal delivery of the medical marijuana by the primary caregiver to the patient at the patient's residence as provided in this chapter.
- (f) Separation from Schools, Day Care Centers, Addiction Recovery Facilities, or Other Medical Marijuana Uses:
 - (1) No medical marijuana wellness center license shall be issued for a location within one thousand feet of any elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a state-licensed day care center, or an addiction recovery facility. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013.
 - (2) ~~No license for a medical marijuana cultivation facility shall be issued for a location within five hundred feet of the real property comprising a public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or state-licensed day care, or addiction recovery facility. This restriction shall not apply to a medical marijuana cultivation facility that had submitted an application or held a license from the city on October 22, 2013.~~
 - (3) No medical marijuana business license shall be issued for a location within five hundred feet of three other marijuana businesses. This limitation shall not apply to a medical marijuana cultivation facility in industrial zones that had submitted an application or been licensed by the city on October 22, 2013.
 - (A) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other medical marijuana business.
 - (B) To determine the proximity to other medical marijuana businesses and the priority of applications, businesses shall have priority in the following order:
 - (i) Businesses that are open and operating;

- (ii) Businesses whose applications have been approved;
 - (iii) Applications for medical marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
 - (iv) No other applications shall be considered "businesses" for this determination.
- (4) For purposes of this paragraph, school, college, or university shall include properties owned by such entities only if they are used to provide services, teaching facilities, or living facilities to students. No distance is required between a marijuana business and properties owned by a school, college, or university that are not used to provide teaching facilities, living facilities, or services to students.
- (g) Limitations on Dual Licenses. A medical marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981, or a medical marijuana business license under this chapter.
- (h) Limitations on Medical Marijuana Centers. The following shall be the minimum requirements for a medical marijuana center:
 - (1) The area of the business is three thousand square feet or less;
 - (2) The business does not distribute medical marijuana only, but provides other caregiver services consistent with a wellness center, including, but not limited to, health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, or homeopathy, or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use;
 - (3) The business includes a secured and locked medical marijuana dispensary room, one or more private rooms for consultation on the medical use of marijuana or other services, and a separate reception area for screening of patients and waiting for nonpatients.
 - (4) All caregiver services provided to meet the requirements of this section must comply with all applicable requirements of any federal, state, or local entity with jurisdiction applicable to the service provided.
- (i) Limitations at Street Level. No marijuana business license shall be issued for a medical marijuana center at a location on the street level of the mall or the University Hill commercial area.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 7970 (2014)

6-14-8. - Requirements Related to Operation of Medical Marijuana Businesses.

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the medical marijuana business.
- (b) Restriction on Access to Restricted Area.
 - (1) No person, other than a patient, licensee, employee, or a contractor, shall be in the restricted area. No patient shall be allowed entry into the restricted area without showing a valid picture ID and evidence that the person is a patient.
 - (2) No person, other than an employee or contractor of the business or a visitor shall be permitted in the restricted area of the business. For purposes of this subsection, a visitor means a person that is accessing the restricted area for educational business purposes. No access to the restricted area may be permitted by tourists or for compensation. The business must require that all visitors comply with all requirements for access to limited access areas as required by the Colorado Marijuana Enforcement Division. The log required shall be maintained on the business premises and available for inspection upon request by the city.

- (c) Display of Licenses Required. The name and contact information for the owner or owners and any ~~business manager~~keyholder of the medical marijuana business, the medical marijuana business license, and the sales tax business license shall be conspicuously posted in the business.
- (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a medical marijuana business and shall not be visible from the exterior of the business.
- (e) Owner or ~~Business Manager~~Keyholder Required on Premises. No medical marijuana business shall be managed by any person other than the licensee or the ~~business manager~~keyholder listed on the application for the license or a renewal thereof. Such licensee or ~~business manager~~keyholder shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person. In the event the licensee intends to employ a ~~business manager~~keyholder that was not identified on the license or renewal application, the licensee shall report the name of such ~~business manager~~keyholder to the city, and such ~~business manager~~keyholder shall submit to the city, at least thirty days prior to commencing serving as the ~~business manager~~keyholder, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in ~~business manager~~keyholders at least thirty days prior to employing an additional ~~business manager~~keyholder, and no more than five days after a ~~business manager~~keyholder is released from such position. In the event the licensee submits a completed application for the new keyholder with a copy of a valid Occupational Key Badge issued by the state Marijuana Enforcement Division, the applicant may work as a keyholder for the licensee upon submission of the application up until final city determination is made on such application.
- (f) Hours of Operation. A medical marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of ~~10~~7 p.m. and 8 a.m. Provided however, in the event that a planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may be returned to the center.
- (g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a medical marijuana business. A medical marijuana business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.
- (h) Ventilation Required. A medical 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 medical marijuana business or at any adjoining use or property.
- (i) Renewable Energy Usage Required. A medical marijuana business shall directly offset one hundred percent of its electricity consumption through the purchase of renewable energy or carbon offsets, a verified subscription in a Community Solar Garden, or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For medical marijuana businesses licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the medical marijuana business license following October 22, 2013.
- (j) Limitations on Inventory. The medical marijuana business shall not maintain any more marijuana within the premises than is permitted under applicable law for the patients which have designated the business as primary caregiver. The medical marijuana business shall not maintain any more marijuana than the amount stated on the business' license application to the state. No plants shall be located in a medical marijuana center or a medical marijuana-infused product manufacturer. The medical marijuana business shall maintain current records evidencing the status as patients of those who have designated the business as the patient's primary caregiver.
- (k) Reporting Requirements. A medical marijuana business shall report to the medical marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.

- (1) Transfer or change of financial interest, ~~business manager~~keyholder, financier, and primary caregiver in the license to the city at least thirty days before the transfer or change.
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly.
 - (3) A violation of any law by any licensee or applicant of a medical marijuana business.
 - (4) A notice of potential violation of any law to any licensee.
 - (5) Any report that the medical marijuana business is required to provide to the state.
 - (6) Reports of all criminal activities or attempts of violation of any law at the medical marijuana business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (l) Delivery to Patients. In the event a primary caregiver personally delivers medical marijuana to one or more patients, at all times any medical marijuana is outside of the restricted area:
- (1) The medical marijuana shall be packaged, sealed, and labeled as provided in this chapter. The label shall include the name of the patient to whom it is being delivered.
 - (2) The primary caregiver delivering the medical marijuana shall have in the primary caregiver's possession documents evidencing: (i) the patient identified on each package of medical marijuana has designated the person as the patient's primary caregiver; (ii) the patient requested delivery of medical marijuana by the primary caregiver; (iii) the amount of the requested delivery; (iv) the date of the requested delivery; and (v) if more than two ounces is being delivered to a patient, a copy of the doctor's recommendation for that patient specifying the additional amount of medical marijuana medicinally necessary for that patient on the form provided by the city.
 - (3) The delivery is made directly to a patient who has a valid registration card and a valid picture identification card that matches the name on the registration card.
 - (4) In no event shall the primary caregiver be in possession of more than eight ounces of a usable form of medical marijuana for delivery outside of the restricted area.
- (m) Delivery Between Medical Marijuana Businesses. It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by applicable law, unless the medical marijuana being transported meets the following requirements:
- (1) All medical marijuana-infused products are hand-packaged, sealed, and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section.
 - (2) All medical marijuana in a usable form for medicinal use is packaged and stored in closed containers that are labeled as provided in this section.
 - (3) Each container used to transport medical marijuana is labeled with the amount of medical marijuana or medical marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the medical marijuana business that the medical marijuana is being transported from and the name and address of the medical marijuana business that the medical marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label.
 - (4) Unless otherwise specifically allowed by applicable law, medical marijuana may be transported only between medical marijuana businesses:
 - ~~(A) From a medical marijuana cultivation facility to a medical marijuana center; and~~
 - ~~(B) Which medical marijuana business is owned by the same person as owns the cultivation facility;~~
- or

- ~~(C) Between one medical marijuana center to another medical marijuana center, or from a medical marijuana cultivation facility to another medical marijuana cultivation facility, with proper bill of sale completed before transport.~~
- (5) The medical marijuana must be accompanied by the manifest ~~and confirmation email from the state~~ in accordance with state requirements for transportation of medical marijuana.
- (6) The medical marijuana must be accompanied by the email receipt confirmation from the Boulder Police Department in accordance with the rules therefor established by the police department;
- (7) When determining and reporting the route to take, licensees should select the most direct route that provides efficiency and safety.
- (n) Disposal of Medical Marijuana and Marijuana Byproducts. All medical marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the medical marijuana plants within a medical marijuana business or possessed by a patient may be mature, flowering plants producing a usable form of marijuana.
- (p) Advertisement. A medical marijuana business may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not advertise in a manner that is misleading, deceptive, false, or designed to appeal to minors. Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this code. The following conditions shall apply:
- (1) Any person licensed as a medical marijuana center shall include in any advertisement for medical marijuana or any medical marijuana-infused product the following language: "For registered Colorado medical marijuana patients only." Provided, however, this language shall not be required to be displayed upon any sign identifying a medical marijuana center, as permitted by Subparagraph (2)(A) of this section.
- (2) Except as otherwise provided in this paragraph, it shall be unlawful for any person licensed under this chapter or any other person to advertise any medical marijuana or medical marijuana-infused product anywhere in the city where the advertisement is in plain view of or in a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition set forth in this paragraph shall not apply to:
- (A) Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address of the center;
- (B) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet, which may include coupons;
- (C) Any products marked with the name or logo of a marijuana business~~the licensed medical marijuana center~~, including wearable or non-consumable merchandise, packaging in which marijuana is sold, or on medical marijuana accessories sold; or
- (D) Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana center ~~or a medical marijuana-infused products manufacturer~~business.

(E) A booth at a job fair or educational seminar where the only items distributed are company-related or educational materials, and no other items are distributed, shown or sold.

(F) A booth at an adult event where the only items distributed are educational materials, and no other items are distributed, shown or sold.

- (3) It is an affirmative defense if a medical marijuana business employee provided another individual, upon request, a business card for the purpose of providing that person's name and business affiliation, including, without restriction, title, mailing address, email address, and telephone number.
- (4) No medical marijuana business shall distribute or allow the distribution of any marijuana or products marked with its name or logo without charge within a marijuana business or any place open to the public for the purpose of promotion or advertising except as permitted in subsections (2)(E) and (F) of this section (p).
- (5) No medical 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 except as permitted in subsections (2)(E) and (F) of this section (p).
- (6) No medical marijuana business shall sell, distribute, or provide, or allow the sale, distribution, or provision of, products marked with its name or logo, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors.
- (q) The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their medical marijuana business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.
- (r) Separation of Cultivation Facility and Medical Marijuana-Infused Product Manufacturer. A cultivation facility and manufacturer are separate medical marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
 - (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
 - (2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marijuana business and any adjacent business.
 - (3) Obtain delivery documents and manifests for movement of any marijuana between the cultivation facility and the manufacturer.
- (s) Additional Requirements for Production of Medical Marijuana.
 - (1) No medical marijuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.
 - (2) The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing medical 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.
- (t) Packaging at Medical Marijuana Center. Provided that medical marijuana has been delivered to a medical marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a medical marijuana center may package and label any marijuana that results from the sale of medical marijuana in amounts less than as packaged for delivery to the center.

- (u) Organization of Cultivation Facilities. All cultivation facilities shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or an aisle and a wall, and with clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and to exits.
- (v) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana or marijuana product, the licensee or employee shall be authorized to confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be turned over to the Boulder Police Department.
- (w) Sale of Immature Plants. A medical marijuana center may not sell immature plants, unless (a) no more than six (6) immature plants are sold to any one customer, and (b) the immature plants are not transferred from the medical marijuana cultivation facility to the center until the day the patient is to pick up the immature plants and no immature plants are maintained at the center overnight. The business may require a deposit with any pre-orders.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 7970 (2014); 8020 (2014); 8081 (2015)

6-14-9. - Right of Entry - Records to Be Maintained.

- (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track medical marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana business. The licensee shall also maintain inventory records evidencing that no more medical marijuana was within the medical marijuana business than allowed by applicable law for the number of patients who designated the medical marijuana business owners as their primary caregiver and the maximum amount represented to the state for its license from the state. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, dates, and patient or caregiver for all medical marijuana sold.
- ~~(b) Separate Bank Accounts. The revenues and expenses of the medical marijuana business shall not be commingled in a checking account or any other bank account with any other business or individual person's deposits or disbursements.~~
- ~~(c) Disclosure of Records. By applying for a medical marijuana business license, the licensee is providing consent to disclose the information required by this chapter, including information about patients and caregivers. Any records provided by the licensee that includes patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the documents under the Colorado Open Records Act, § 24-72-201, et seq., C.R.S., or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection, it will provide at least twenty-four-hour notice to the applicant prior to such disclosure.~~

- (d) Audits. The city may require an audit to be made of the books of account and records of a medical marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the medical marijuana business. The expense of any audit determined necessary by the city shall be paid by the medical marijuana business.
- (e) Consent to Inspection. Application for a medical marijuana business license or operation of a medical marijuana business, or leasing property to a medical marijuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the city manager to conduct routine inspections of the medical marijuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner or ~~business manager~~ keyholder on duty shall retrieve and provide the records of the business pertaining to the inspection. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of medical marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the medical marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a medical marijuana business license constitutes consent to inspection of the business as a public premises without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a medical marijuana license without a search warrant.
- (f) Reporting of Source, Quantity, and Sales. The records to be maintained by each medical marijuana business shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and transactions to patients or caregivers, the following:
 - (1) Name and address of seller or purchaser;
 - (2) Date, weight, type of marijuana, and dollar amount or other consideration of transaction; and
 - (3) For wholesale transactions, the state and city, if any, sales and use tax license number of the seller.
- (g) Reporting of Energy Use and Carbon Offset Purchases. The records to be maintained by each medical marijuana business and submitted to the city on a quarterly basis, shall include, without limitation, records showing on a monthly basis the use and source of energy and the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewable energy acquisition program approved by the city manager. A statement of the projected daily average peak electric load anticipated to be used by the business and certification from the building owner or landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed. Such records shall include all statements, reports, or receipts to verify the items included in the report of the business. By application for a medical marijuana business license from the city, the medical marijuana business grants permission to providers of the energy or point of origin of the RECs or other renewable energy acquisition program to disclose the records of the business to the city. For medical marijuana businesses that cultivate medical marijuana, the report shall include the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewal energy acquisition program approved by the manager.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 8081 (2015)

6-14-10. - Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. A separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) Cameras. The medical marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms and consulting rooms while a patient is undressed), and where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana business. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of ~~forty~~thirty days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within seventy-two hours of any change of such location.
- (b) Use of Safe for Storage. The medical marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.
- (c) Alarm System. The medical marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

6-14-11. - Requirements for Public Health and Labeling.

- (a) Medical Marijuana-Infused Products. The production of any medical marijuana-infused product shall be at a medical marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing medical marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the medical marijuana-infused products were food items.
- (b) Labeling and Packaging Requirements. All medical marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any resale or redistribution of the medical marijuana to a third person is prohibited. In addition, the label shall comply with all applicable requirements of the State of Colorado and any other applicable law. ~~be in print large enough to be readable and shall include:~~
 - ~~(1) Potential food allergy ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and soybeans.~~
 - ~~(2) All additives used to extract THC, including, without limitation, pesticides, herbicides, and fertilizers that were used in the cultivation of the medical marijuana used in the product.~~
 - ~~(3) The following warning:~~

~~THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.~~

- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

6-14-12. - Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for medical use shall also apply to medical marijuana businesses in the city. Provided however, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits 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 is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No medical marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses, or if a medical marijuana business is denied a medical marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through medical marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (c) Revocable Privilege. A medical marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

6-14-13. - Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Cultivate, distribute, possess, or produce marijuana in plain view of or in a place open to the general public.
 - (2) Smoke, use, or ingest on the premises of the medical marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous, and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges.
 - (3) Operate or be in physical control of any medical marijuana business, liquor establishment, vehicle, aircraft, or motorboat while under the influence of alcohol, medical marijuana, or other intoxicant.
 - (4) Possess or use medical marijuana:
 - (A) on the grounds of a school or university or in a school bus; or
 - (B) in a vehicle, aircraft, or motorboat.
 - (5) Possess medical marijuana that is not in a sealed package in a location where the possessor is not authorized to possess or consume medical marijuana.

- (6) Possess more than six marijuana plants without a medical marijuana business license for a cultivation facility. It shall be an affirmative defense to this charge if (a) a legitimate recommendation from a qualified physician of the patient for whom the marijuana is being grown includes a recommendation for a specific amount of marijuana in excess of six marijuana plants as being medically necessary to address the patient's debilitating medical condition, and (b) the plants are located within a licensed medical marijuana business.
- (7) Possess more than two ounces of a usable form of marijuana without a medical marijuana business license for a center or a medical marijuana-infused product manufacturer. It shall be an affirmative defense to this charge if a legitimate recommendation from a qualified physician of the patient possessing the medical marijuana includes a recommendation for a specific amount of marijuana in excess of two ounces as being medically necessary to address the patient's debilitating medical condition.
- (8) Obtain marijuana from a person who is not licensed as a medical marijuana business.
- (9) Possess or operate a medical marijuana business in violation of this chapter.
- (10) Produce, distribute, or possess more medical marijuana than allowed in this chapter than disclosed in the application to the state for a medical marijuana business license or other applicable law.
- (11) Distribute medical marijuana without a medical marijuana business license or outside of the restricted area of the medical marijuana business.
- (12) Possess medical marijuana, own or manage a medical marijuana business, or own or manage a building with a medical marijuana business, where there is possession of medical marijuana by a person who is not a patient, a primary caregiver, or a licensee of a medical marijuana business.
- (13) Possess or operate a medical marijuana business in a location or in a manner for which a medical marijuana business license is prohibited by the terms of this chapter.
- (14) Operate a medical marijuana business without a medical marijuana business license from the city.
- (15) Operate a medical marijuana business in a manner that is not consistent with the items disclosed in the application for the medical marijuana business, or is in violation of any plan made part of the license application.
- (16) Operate a medical marijuana business without disclosing, in the application for a medical marijuana business license or an amendment thereto, an agent who either (i) acts with managerial authority, (ii) provides advice to the medical marijuana business for compensation, or (iii) receives periodic compensation totaling \$1,000 or more in a single year for services related to the medical marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person.
- (17) Distribute, or own or manage a medical marijuana business where distribution occurs, from a medical marijuana business, a medical marijuana-infused product that was produced in a manner that is not in compliance with this chapter.
- (18) Cultivate, manufacture, distribute, or possess any medical marijuana at a location without a medical marijuana business license prior to passing the inspection required by this chapter; provided however, this subparagraph shall not apply to medical marijuana businesses qualifying for the exception of Subsection 5-14-3(a), "License Required," B.R.C. 1981.
- (19) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city.

- (20) Attempt to use or display a medical marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license.
- (21) Cultivate, produce, distribute, or possess medical marijuana, or own or manage a medical marijuana business in which another cultivates, produces, distributes, or possesses medical marijuana, in violation of this chapter or any other applicable law.
- (22) Allow an owner or ~~business manager~~keyholder that has not been disclosed to the city as required by this chapter to operate the business.
- (23) Own, manage, or possess a medical marijuana business where medical marijuana is outside of the restricted area portion of such business. It shall be an affirmative defense to a violation of this section if the medical marijuana outside of the restricted area was: (i) in the custody and control of a patient; (ii) purchased by that patient from the business and the patient has not left the business since purchase; and (iii) the amount of medical marijuana in the custody and control of the patient does not exceed the amount the patient may possess lawfully.
- (24) Possess a number of flowering plants that is more than one-half of the medical marijuana plants that are lawfully possessed by a person.
- (25) Dispose of medical marijuana or any by-product of medical marijuana containing marijuana in a manner contrary to this chapter.
- (26) Distribute a medical marijuana plant to any person, except as permitted in this chapter for immature plants.
- (27) Deliver or transport medical marijuana to a patient or between medical marijuana businesses except in strict compliance with this chapter.
- (28) Refuse to allow inspection of a medical marijuana business upon request of a city employee. Any licensee, owner, ~~business manager~~keyholder, or operator of a medical marijuana business, or the owner of the property where a medical marijuana business is located, may be charged with this violation.
- (29) Advertise or publish materials, honor coupons, sell or give away products, or display signs that are in violation of this code;
- (30) Violate any provision of this code or any condition of an approval granted pursuant to this code or any law, rule, or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.
- (31) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.
- (32) Lease any property to a medical marijuana business that has marijuana on the property without a medical marijuana business license from the city.
- (33) Label or distribute a marijuana-infused product that is not labeled as required by this code or other applicable law.
- (34) Distribute or deliver marijuana from a medical marijuana cultivation facility to any location other than a medical marijuana wellness center.
- (35) Fail to respond by phone or email as required by Subsection 6-14-8(q) of this chapter.
- (36) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other periodical of general circulation within the city or on the internet.
- (37) Failure to provide a copy or record of a coupon authorized under this chapter upon request of an authorized city employee.

(38) Fail to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person or disruption to the business.

(39) Fail to post the premises during a suspension.

(40) Distribute any consumable product, not including bottled water, that is not a marijuana-infused product.

- (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, mental confusion, slowed responses, rigid muscles, body tremors, or dry mouth, or any other indicators of impairment.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012); 7929 (2013); 7970 (2014)

6-14-14. - Suspension or Revocation of License; Imposition of Fines.

- (a) A medical marijuana business license may be suspended or revoked for any of the following violations:

- (1) Conviction of the business, a licensee, or any owner, ~~business manager~~keyholder, financier, or primary caregiver of any violation of this chapter or any other law, rule, or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.
- (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the medical marijuana business.
- (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application.
- (4) Distribution of medical marijuana, including, without limitation, delivery to a patient or transporting marijuana, in violation of this chapter or any other applicable law, rule, or regulation.
- (5) Operation of a medical marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.
- (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter.
- (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, ~~business manager~~keyholders, financier, or agent.
- (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law.
- (9) Revocation or suspension of another medical marijuana business license or any other license issued by the city, the state, or any other jurisdiction held by any licensee of the medical marijuana business.
- (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.

- (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.

- (c) Fines for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.
- (d) If the city revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Boulder Police Department.
- (e) In the event of the suspension of a marijuana business license, during the period of suspension, the business::
 - (1) Shall post two notices provided by the Marijuana Licensing Authority, in conspicuous places, one on the exterior and one on the interior of its premses for the duration of the suspension; and
 - (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers into the licensed premises.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012); 7970 (2014); 8081 (2015)

6-14-15. - Term of License - Renewals - Expiration of License.

- (a) Term of License. A medical marijuana business license shall be valid for one year. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license. For the first license issued for a medical marijuana business, the city manager may designate an expiration date in excess of one year, but no more than twenty-four months, to facilitate the administration by the city of renewals of such licenses.
- (b) Renewal of License. The licensee shall apply for renewal of the medical marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant submits a late filing fee of \$5,000 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
 - (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any ~~business manager~~keyholder, financier, agent as defined herein, or employee has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include verification that the business has a valid state license and the state license is in good standing.
 - (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased, the amount of marijuana sold, the forms in which marijuana was sold, the number of patients and the number of primary caregivers who received marijuana,

the police report numbers or case numbers of all police calls to the medical marijuana business and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.

- (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
 - (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-14-4(e).
- (c) Nonpayment of Tax. In the event a medical marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the medical marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
- (d) Expiration of License. Expiration of a medical marijuana business license for any reason, including, without limitation, pursuant to Subsection (c) above, shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

Ordinance Nos. 7716 (2010); 7780 (2011); 7814 (2011); 7877 (2012)

6-14-16. - City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance Nos. 7716 (2010); 7780 (2011); 7877 (2012)

Chapter 6-16 - Recreational Marijuana Code

6-16-1. - Legislative Intent, Findings, and Purpose.

- (a) Legislative Intent and Findings. The city council intends to regulate the use, possession, cultivation, production, and distribution of marijuana in a manner that is consistent with Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment" also known as Amendment 64) and finds that the provisions of this chapter are directly and demonstrably related to the operation of marijuana establishments in a manner to minimize negative impacts on the community.
 - (1) The city adopts this law to apply to all recreational marijuana operations in the city under the Recreational Marijuana Amendment, or any recreational marijuana business permitted under the state law.
 - (2) Marijuana use, distribution, cultivation, and production can have an impact on health, safety, and community resources, and the code is intended to permit marijuana cultivation, distribution, production, and testing where it will have a minimal impact, and potential negative impacts are minimized.
 - (3) Use, distribution, cultivation, production, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.

- (4) The General Assembly has adopted enabling legislation that provides for local licensing, however, the state law is not intended to, and does not, address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana operations.
 - (5) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.
 - (6) This chapter is to be construed to protect the public over marijuana business interests. Operation of a recreational marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have marijuana in the city.
 - (7) Marijuana businesses are a heavily regulated industry in the city, all licensees are assumed to be fully aware of the law, the city shall not therefore be required to issue warnings before issuing citations for violations of this chapter.
 - (8) This chapter is not intended to replace the medical marijuana law in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, and any person may apply for and operate a medical marijuana business pursuant to Chapter 6-14, "Medical Marijuana," B.R.C. 1981, without complying with this chapter.
 - (9) This chapter is intended to specify the time, place, and manner restrictions for operating a recreational marijuana business in the city as specified in the Recreational Marijuana Amendment.
 - (10) The operation of a marijuana business without a license from the city as provided in this chapter is prohibited within the city.
 - (11) The experience of the city in processing and enforcing medical marijuana business licensing evidences that the provisions herein are capable and worthy of being carried out in practice by a reasonably prudent businessperson.
 - (12) The Colorado Administrative Procedures Act, Article 4 of Title 24 of the Colorado Revised Statutes (the "APA"), does not apply to local governments and the state has not been able to resource the process thereof in a timely manner. The procedures herein for issuance and enforcement of a recreational marijuana business license are consistent with the requirements of the APA and have been determined by the Boulder District Court to provide the level of due process required by the United States and Colorado Constitutions.
 - (13) A licensee is not acting in his or her capacity as an owner, employee, or agent of a licensed marijuana establishment if the licensee is operating in violation of this chapter or any other applicable law.
 - (14) The city council has determined to allow marijuana establishments in the city on the condition that the establishments are operated in compliance with this chapter rather than banning marijuana establishments in the city as permitted by the Recreational Marijuana Amendment.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare of the residents, businesses, and property in the city by prescribing the manner in which recreational marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:
- (1) Provide for a means of cultivation, production, and distribution of marijuana to persons permitted to obtain, possess, and use marijuana for recreational purposes under the Recreational Marijuana Amendment;
 - (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air, and water quality, food safety, neighborhood and public safety, security for the business and its personnel, and other health and safety concerns;
 - (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas;

- (4) Impose fees for licensing recreational marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program;
 - (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter;
 - (6) Create regulations that address the particular needs of the residents and businesses of the city and coordinate with laws that may be enacted by the State of Colorado regarding recreational marijuana;
 - (7) Facilitate the implementation of the Recreational Marijuana Amendment without going beyond the authority granted by it;
 - (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow recreational marijuana;
 - (9) Issue recreational marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials;
 - (10) Protect public safety and residential areas by limiting the areas of the city where more than six marijuana plants may be grown;
 - (11) Exclude from the definition of a recreational marijuana business the private possession, production, and recreational use of marijuana by an individual or the private possession, production, distribution, and recreational use of marijuana by an individual, in the person's residence, to the extent permitted by Article XVIII, Section 16 of the Colorado Constitution; and
 - (12) Designate the city manager as the recreational marijuana licensing authority responsible for licensing recreational marijuana for the city.
- (c) Relationship to State Law. The provisions in this chapter that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety, and welfare as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the Charter of the city. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply.
- (d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under the Recreational Marijuana Amendment.

Ordinance No. 7930 (2013); 8081 (2015)

6-16-2. - Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Addiction recovery facility shall have the same meaning as set forth in Section 9-16-1, "General Definitions," B.R.C. 1981.

Adult Event means any event at which no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21. To be considered an Adult Event, (a) in an enclosed building not visible from a place open to the public and admission to the event must be controlled and limited to those over 21 years of age, or (b) prior to the commencement of the event or advertising for the event, the marijuana business shall present to the city reliable evidence to demonstrate that the event will have no more than 30 percent of the audience, and those viewing advertising for the event, under the age of 21. No event on city property or dedicated trails for which access and visibility cannot be controlled may be considered an Adult Event.

Advertise means the act of drawing the public's attention, whether on print, signs, or electronic means, to a recreational marijuana business in order to promote the sale of marijuana by the business.

Appealing to Minors means any display on the internet, by radio, in print on a sign, or similar presentation visible to individuals under 21 years of age that contains visual or audio or print depictions of cartoon characters, caricatures, consumable products, individuals that seem under 21 years of age or engaging in activities not typical of adults. Animals that do not violate the other restrictions in this chapter may be allowed.

~~Business manager~~Keyholder means the individual designated by the owner of the recreational marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. ~~Business manager~~Keyholder shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

Company material means any information printed or transmitted electronically that includes the name and logo of a particular marijuana business(es), and promotes the business or describes marijuana or marijuana-infused product distributed by the business(es). Company material may include promotion of the business to potential employees over the age of 21, or investors, or instructions for use of any marijuana or marijuana-infused products distributed by the business(es).

Coupon means a printed voucher or token entitling the holder to a discount for a particular product or service. Coupon does not include showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.

Co-located marijuana business means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, that is permitted by the owner of the building and all applicable laws, to divide the licensed ~~medical~~ marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person as the medical marijuana wellness center or cultivation facility. The licensees with an ownership or financial interest of either part of a co-located marijuana business may not be changed to be different from the other.

Cultivation or cultivate means: (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging, or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Cultivation facility means a licensed recreational marijuana business that produces and harvests marijuana plants for distribution by a licensed ~~recreational~~ marijuana business~~center or a licensed recreational marijuana-infused product manufacturer~~. Except as included in this definition, a cultivation facility may not operate any production on its premises.

Distribute or distribution means the actual, constructive, or attempted transfer, delivery, sale, or dispensing of marijuana to another, with or without remuneration.

Educational material means materials prepared by a governmental or non-profit entity that are designed to provide information, facts, instructions, and warnings related to the legal use and consumption of marijuana and marijuana products. Educational materials do not include arguments for or against the legalization of marijuana or encourage the use of marijuana or advertisements, including the name and logo for any marijuana business.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 12-46-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. Financier shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal

government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits.

Handbill, leaflet or flyer means a flat or folded sheet of printed matter that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. Handbill, leaflet or flyer does not include educational materials without the name or logo of a marijuana business, or information made available within the licensed premises of a marijuana business.

Immature plant means a nonflowering marijuana plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

Incidental to Sponsorship of Charitable Events means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs or similar items. Incidental to sponsorship of a charitable event, does not include the placement of a booths or distribution of materials at the event by the marijuana business.

Job fair or educational seminar means an adult event held for the purpose of (a) connecting persons seeking jobs in a particular industry with employers in that industry or (b) educating others on matters related to the legal marijuana industry.

Keyholder means the individual designated by the owner of the recreational marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. Keyholder shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

Licensee means the recreational marijuana business named on the recreational marijuana business license, and all individuals named in the recreational marijuana business license application or later reported to the city, including, without limitation, owners, ~~business manager~~ keyholders, financiers, and individuals owning any part of an entity that holds a financial or ownership interest in a recreational marijuana business.

Mall means the downtown Boulder Business Improvement District boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by Ordinance No. 4022 adopted February 18, 1975.

Malt, vinous, and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 12-47-108, C.R.S.

Marijuana for this Chapter 6-16 means:

- (1) The same as set forth in the Recreational Marijuana Amendment; or
- (2) As may be more fully defined in any applicable state law or regulation.

Marijuana accessories shall have the same meaning as in the Recreational Marijuana Amendment.

Marijuana business means any medical marijuana business as defined in Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or recreational marijuana business as defined in this chapter.

Marijuana establishment means a recreational marijuana business that has a license from the State of Colorado and the city to operate.

Marijuana-infused product manufacturer means a licensed marijuana business that produces marijuana-infused products.

Marijuana testing facility means a recreational marijuana business that has been licensed as a marijuana testing facility by the state that is in good standing, and has a license in good standing with the city.

Marijuana warehouse means a marijuana establishment that is not licensed by the city as a medical marijuana business or a licensed recreational marijuana business. No marijuana warehouses are allowed in the city.

Minor means a person under twenty-one years of age.

Mixed use development means a building or a project or a development that contains dwelling units in any zone district.

Modification of Premises means a change to a marijuana business that requires a building or other permit from the city or changes any part of the plans required as part of the application for the marijuana business license. Modification of premises does not include routine maintenance, including replacement of light bulbs or filters, painting, cleaning or replacement of non-mechanical items such as windows and flooring so long as the maintenance does not result in a change to the plans required as part of the application.

Place open to the general public means any property owned, leased, or used by a public entity, and any place on private property open to the public, common areas of buildings, private club, vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. Place open to the general public shall not include (a) any fenced area of a private residence regardless of whether it can be seen from a place open to the public, or (b) any enclosed portion of a building not visible from a place open to the public which qualifies as an adult event.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times. The ~~business manager~~keyholder of a recreational marijuana business shall be considered in possession of the recreational marijuana business at all times that the ~~business manager~~keyholder is on the premises of the business or has been designated by the owner as the ~~business manager~~keyholder in the absence of the owner in accordance with this chapter.

Premises means a distinct and definite location, which may include a building, a part of a building, a room, or any other defined contiguous area.

Private club means any location, other than a residence of a person at the residence, or a marijuana establishment.

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. Production shall not include packaging or repackaging, labeling, or relabeling of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Promotional items means any item, including printed materials, that contain the name and or logo of a marijuana business and are distributed for free or a minimal cost. Promotional items, or "swag" includes stickers, clothing, tangible goods, and similar items that are intended to expose others to the name or logo of a particular business. Promotional items does not include educational materials.

Recreational marijuana means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in this chapter, the Recreational Marijuana Amendment, and any other applicable law.

Recreational Marijuana Amendment means Article XVIII, Section 16 of the Colorado Constitution.

Recreational marijuana business means (a) any person that cultivates, produces, distributes, possesses, transports, or makes available more than six marijuana plants or one ounce of marijuana, or

(b) any person that sells any amount of marijuana, or (c) any person who possesses marijuana openly or publicly. The term recreational marijuana business shall not include the private cultivation, possession, or use within a person's residence of no more than (a) six plants in an enclosed, locked space, or (b) one ounce of marijuana, or (c) the marijuana derived from no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed, locked space.

Recreational marijuana center means a licensed recreational marijuana business that distributes marijuana to any person or other licensed to~~recreational marijuana business, infused product manufacturers or to another recreational marijuana center.~~

Recreational marijuana-infused product means a product infused with marijuana that is processed for use or consumption, including, without limitation, edible products, concentrates, ointments, tinctures, and any item defined as a "marijuana product" in the Recreational Marijuana Amendment.

Recreational marijuana local licensing authority means the city manager. The manager shall be the local licensing authority responsible for processing applications under this chapter for the purpose of the Recreational Marijuana Amendment and any state law that requires the city to designate a local licensing authority.

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. Recreational marijuana plant shall include immature plants except where specifically excepted in this code. For purposes of this chapter, any part of the plant removed is considered harvested and no longer part of a recreational marijuana plant, but marijuana.

Restricted area means the portion of a recreational marijuana business premises within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce recreational marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the recreational marijuana business license application for the business.

Safe means a metal box, attached to the building structure, capable of being locked securely, constructed in a manner to prevent opening by human or mechanical force, or through the use of common tools, including but not limited to hammers, bolt cutters, crow bars or pry bars. The city manager may approve security devices such as vaults and strong rooms that are functionally equivalent to safes.

University Hill commercial area means the area described as the University Hill General Improvement District in Appendix 8-A of Title 8 of this code.

Violation of any law or violated any law means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement, or determination by an arbitrator, hearing officer, court, or jury.

Virtually separated marijuana business means a co-located marijuana business that is not separated into two different premises.

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014); 8081 (2015)

6-16-3. - License Required.

- (a) License Required. It shall be unlawful for any person to operate a recreational marijuana business without obtaining a license to operate pursuant to the requirements of this chapter and holding a license in good standing from the state.
- (b) Additional Licenses and Permits May Be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.

- (c) License Does Not Provide Any Exception, Defense, or Immunity From Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.
- (d) Separate License Required for Each Location. A separate license shall be required for each premise from which a recreational marijuana business is operated. Except as specifically provided in this chapter, nNo two or more different businesses, including recreational marijuana businesses, may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a recreational marijuana business and any adjacent business.
- (e) License Nontransferable. A recreational marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business (including another marijuana business), or to a different owner or licensee. A recreational marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a recreational marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed recreational marijuana business shall be permitted in the following circumstance:
 - (1) The new owner and all licensees of the business have submitted completed applications and passed a background by the city;
 - (2) The new owner is not making changes to any of the plans or conditions that are part of the license; and
 - (3) The license transfer location is permitted without the exceptions of Subsection 6-16-7(c) or (e) of this chapter.
- (f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open, and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the recreational marijuana business license will be issued. The term of the license shall be the same as the existing medical marijuana business license.
- (g) Conversion to a Co-located Marijuana Business Within the Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license by submitting an application for a co-located marijuana business on forms approved by the city. At a minimum, the application form shall include a modification of the existing medical marijuana business to conform to the new footprint of the medical marijuana portion of the co-located marijuana business and all components of the application described in Section 6-16-5, "Application, " B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and paying the modification of premises fee and operating fee specified in Section 4-20-67, "Recreational Marijuana Businesses, " B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.

- (h) Conversion to a Co-located Marijuana Business in an Expansion of the Existing Footprint of the Medical Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license within a footprint that is an expansion of its existing medical marijuana business by submitting an application for modification of the existing medical marijuana business, and an application for co-location of a medical and recreational business within the modified premises on forms approved by the city by March 1, 2014. At a minimum, the application shall include (i) the same owners and financiers of the existing medical marijuana businesses, (ii) the proposed modification of the existing and expanded area of the existing medical marijuana business to depict the two new businesses separated as required by this code, (iii) all components of the application described in Section 6-16-5, "Application," B.R.C. 1981, determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and (iv) the modification of premises fee, conversion fee, and operating fee specified in Section 6-16-5, "Application," B.R.C. 1981. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(3) of this chapter, the co-located medical and recreational marijuana business shall be considered one marijuana business. No co-located medical and recreational marijuana business may be sold separately from the other and must maintain identical ownership at all times.
- (i) Virtual Separation of Co-located Marijuana Business. A co-located business may be virtually rather than physically separated if the businesses provide evidence that they have maintained their respective books and records in compliance with section 9 of this chapter for the twelve months preceding the application for virtual co-location. For businesses that have been open for less than twelve months and those who have not complied with Section 9 in the past, the business shall provide evidence satisfactory to the city manager of the manner in which it will comply with Section 9. One-Time Transfer of Vertically Integrated Cultivation Facility and Marijuana-Infused Product Manufacturer Operating Within the City. Any business entity with a license from the city for both a marijuana-infused product manufacturer and a cultivation facility on November 1, 2015, may transfer one of the licenses to a different business entity under the following conditions:
- ~~(1) All of the owners and financiers of the transferee business entity are the same as those of the transferor business entity and there are not any additional owners or financiers; and~~
- ~~(2) The marijuana licenses for both the marijuana manufacturer and the marijuana cultivation facility are in good standing; and~~
- ~~(3) Neither the marijuana manufacturer nor the marijuana cultivation facility have previously transferred a city marijuana license under this subsection.~~
- ~~(j) Until such time as the State of Colorado provides the city with access to criminal history information for the purpose of issuing marijuana business licenses, no conversion under Subsection (f) or co-location under Subsection (g) of this section shall be approved if there is any change in the identity of the individuals required to be listed on the application as reported to the city by October 22, 2013, pursuant to this chapter.~~

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014); 8031 (2015); 8081 (2015)

6-16-4. - General Provisions.

- (a) General Licensing Provisions. The general procedures and requirements of licenses, as more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to recreational marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the provisions of this chapter shall control for recreational marijuana business licenses.

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- (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court for a violation of this chapter as specifically provided herein.
- (c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.
- (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove marijuana of any recreational marijuana business, or any person cultivating, producing, distributing, or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.
- (e) Reserved.
- (f) Forfeiture of License. In the event that a recreational marijuana business does not commence operations within thirty days of issuance of a license from the city, the license shall be deemed forfeited, and the business may not commence operations.
- (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a recreational marijuana business unless the tenant has a valid recreational marijuana business license or has applied for and not been denied a recreational marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a recreational marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected recreational marijuana business is located to determine whether any marijuana is on the premises.
- (h) Requirements for Time Periods for Accepting Applications for Conversion to a Recreational Marijuana Business or Co-Location of Marijuana Businesses.
 - (1) ~~No applications for conversion of a medical marijuana business to a recreational marijuana business pursuant to Subsection 6-13-3(f) of this chapter shall be accepted before January 2, 2014. As a condition of the city accepting an application for conversion of a medical marijuana business to a recreational marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business. If a license is issued, and the business makes any changes in licensees prior to such time as the State of Colorado makes criminal history information available for the purpose of processing recreational marijuana business licenses, the license may be revoked.~~
 - (2) ~~No applications for conversion to a co-located medical and recreational marijuana business pursuant to Subsection 6-13-3(g) of this chapter of a medical marijuana business shall be accepted before January 21, 2014. As a condition of the city accepting an application for conversion to a co-located marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business. If a license is issued, and the business makes any changes in licensees prior to such time as the State of Colorado makes criminal history information available for the purpose of processing recreational marijuana business licenses, the license may be revoked.~~
 - (3) ~~No applications for conversion to a co-located medical and recreational marijuana business pursuant to Subsection 6-13-3(h) of this chapter of a medical marijuana business within a footprint that is larger than the existing medical marijuana business shall be accepted before February 3, 2014. As a condition of the city accepting an application for conversion to a co-located marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business. If a license is issued, and the business makes any changes in licensees prior~~

~~to such time as the State of Colorado makes criminal history information available for the purpose of processing recreational marijuana business licenses, the license may be revoked.~~

- ~~(4) No applications for a new recreational marijuana business (that is not a conversion from a medical marijuana business pursuant to Subsection 6-16-3(f) of this chapter or a co-located marijuana business pursuant to Subsection 6-16-3(g) of this chapter or a co-located marijuana business pursuant to Subsection 6-16-3(h) of this chapter shall be accepted before June 1, 2014.~~

Ordinance Nos. 7930 (2013); 8081 (2015)

6-16-5. Application; Modification of Premises.

- (a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:
- (1) Name and address of the owner or owners of the recreational marijuana business in whose name the license is proposed to be issued.
 - (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
 - (B) If an owner is a partnership, association, or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
 - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity and contact information for that person.
 - (2) Name and address of:
 - (A) Any ~~business manager~~keyholders of the recreational marijuana business, if the ~~business manager~~keyholder is proposed to be someone other than the owner;
 - (B) All financiers of the recreational marijuana business; and
 - (C) All agents of the recreational marijuana business who either (I) act with managerial authority, (II) provide advice to the recreational marijuana business for compensation, or (III) receive periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of recreational marijuana.
 - (3) A statement of whether or not any of the named owners, members, ~~business manager~~keyholders, financiers, or persons named on the application have been:
 - (A) Denied an application for a marijuana business license pursuant to this chapter, Chapter 6-14, "Medical Marijuana," B.R.C. 1981, or any similar state or local licensing law, rule, or regulation, or had such a license suspended or revoked.
 - (B) Denied an application for a liquor license pursuant to Title 12, Article 47 or Article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.
 - (C) Violated any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.

- (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.
- (4) Proof of ownership or legal possession of the restricted area for a recreational marijuana business for the term of the proposed license. If the recreational marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
- (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
- (6) An operating plan for the proposed recreational marijuana business, including the following information:
 - (A) A description of the products and services to be provided by the recreational marijuana business.
 - (B) A dimensioned floor plan, clearly labeled, showing:
 - (i) The layout of the structure and the floor plan in which the recreational marijuana business is to be located;
 - (ii) The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where underage persons will be permitted, storage areas, retail areas, and restricted areas where recreational marijuana will be located;
 - (iii) Areas where any services other than the distribution of recreational marijuana are proposed to occur in the premises; and
 - (iv) The separation of the areas that are open to persons who are underage from those areas open to persons qualified to use marijuana.
 - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood for effective mitigation of community impacts, including neighborhood outreach, methods for future communication, and dispute resolution.
 - (D) For cultivation facilities and marijuana-infused product manufacturers and marijuana testing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.
 - (E) For a marijuana-infused product manufacturer or a 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.
 - (F) The maximum amount of marijuana or marijuana-infused products that may be on the business premises.
- (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule, or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.

- (8) A lighting plan showing the lighting outside of the marijuana business for security purposes and compliance with applicable city requirements.
 - (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed-use development containing one or more residences.
 - (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, ~~business manager~~keyholders, and financiers employed by or under contract to provide services to the recreational marijuana business, including all individuals who have an interest as described herein of any portion of the recreational marijuana business, directly or as an agent, or a member, partner, or officer of a corporation, partnership, association, or company, and the reports from the Colorado and Federal Bureau of Investigation for each person.
 - (11) A plan for disposal of any recreational marijuana or marijuana-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
 - (12) 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.
 - (13) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a marijuana business, that will be used, kept, or created at the marijuana business, the location of such materials and how such materials will be stored.
 - (14) 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 marijuana business.
 - (15) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.
 - (16) ~~For applications for a marijuana infused product manufacturer, the location of the cultivation facilities which will supply the marijuana for processing in the city owned by the licensee.~~ Modifications to Approved Recreational Marijuana Business License. Prior to making a modification of a marijuana business that would require a building permit or change items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit to the city and have approved a complete application for modification of premises in the form provided by the city.
- (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, ~~business manager~~keyholder, financier, or other person named on the application contains information regarding violations of any law, or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, and other regulatory licenses held without compliance violations, especially those items

pertaining to the period of time between the applicant's last violation of any law and the date of the application.

- (c) Fee Required. Any application for a license for a marijuana business under this chapter shall be accompanied by the operating fee, criminal background fee, annual license fee, and any other applicable fees, as required by Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981. Unless the State of Colorado has forwarded the application fee pursuant to Colorado Constitution Art. XVIII, § 16(5)(g)(II) to the city, the applicant shall submit the application fee set forth in Section 4-20-67, "Recreational Marijuana Businesses," B.R.C., 1981 to the city with the application.
- (d) Inspection. An inspection of the proposed recreational marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any recreational marijuana, and prior to the opening of the business to the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this code and any other applicable law, rule, or regulation.
- (e) Complete Application. For purposes of this chapter, an application shall not be considered complete until the city manager has (i) determined that all requirements of the application have been provided to the city, (ii) received the reports from the fingerprint cards of each person required to submit such cards from the Colorado and Federal Bureau of Investigation, (iii) received the local share of \$2,500 for the application fee from the State of Colorado, and (iv) obtained all other information the manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
- (f) Approval Requirements. The city manager may issue a recreational marijuana business license if the inspection, background checks, and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fee, all in compliance with this code and any other applicable law, rule, or regulation. The manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule, or regulation or that contains any false or incomplete information. The conditions of an approval of a recreational marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

Ordinance No. 7930 (2013)

6-16-6. - Persons Prohibited as Licensees and ~~Business Manager~~Keyholders.

- (a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a recreational marijuana business, and no license provided by this chapter shall be issued to or held by, and no recreational marijuana business shall be managed by:
 - (1) Any person until the annual fee for the license has been paid;
 - (2) Any person not of good moral character;
 - (3) Any corporation, any of whose officers, directors, or stockholders are not of good moral character;
 - (4) Any partnership, association, or company, any of whose officers or members holding an interest therein, or a managing member, is not of good moral character;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;
 - (6) Any person, unless such person's character, record, and reputation are satisfactory to the city manager;

- (7) Any natural person who is under twenty-one years of age;
 - (8) Any person who operates or manages a recreational marijuana business contrary to the provisions of this chapter, any other applicable law, rule, or regulation, or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;
 - (9) Any person applying for a license to operate a recreational marijuana center who has been licensed to operate another recreational marijuana center in the city pursuant to this chapter;
 - (10) Any person applying for a license to operate a marijuana-infused product manufacturer facility who has been licensed to operate another marijuana-infused product manufacturer facility in the city pursuant to this chapter;
 - (11) A person licensed pursuant to this chapter who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
 - (12) A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
 - (13) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S. has been revoked by the state health agency; or
 - (14) A person that is a licensee for the application location that is currently licensed as a retail food establishment or a wholesale food registrant.
 - (15) Any person applying for a license to operate a marijuana center who has been licensed to operate three other marijuana centers in the city pursuant to either this chapter or chapter 6-14. For purposes of this subparagraph only, one co-located medical and recreational marijuana center is considered one marijuana-center.
- (b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:
- (1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;
 - (2) Verification of, or lack of ability to verify, items disclosed by the individual;
 - (3) When an individual has a history of violation of any law, or a history including denial, revocation, or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse, or other violations of any laws that may directly affect the individual's ability to operate a recreational marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;
 - (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a recreational marijuana business;
 - (5) Rules adopted by the manager to implement this chapter;
 - (6) Law, rules, and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and
 - (7) Any additional information the manager may request of the individual if the individual has a violation of any laws, evidence of substance abuse issue, or items disclosed by the individual which require additional information in order for the manager to make a determination regarding issuance of the license.

6-16-7. - Locations of Recreational Marijuana Businesses.

- (a) Fixed Location Required. It shall be unlawful to operate a recreational marijuana business or to grow recreational marijuana outside of a locked enclosed space within a building. All recreational marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows recreational marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.
- (b) Location - Permitted Use in Zoning District. A recreational marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located, as follows:
 - (1) as "personal service" for a recreational marijuana center;
 - (2) as "greenhouse/nursery" for a recreational marijuana cultivation facility; or
 - (3) as "manufacturing \leq 15,000 square feet" for a recreational marijuana cultivation facility, for a marijuana-infused product manufacturer, or for a marijuana testing facility.
- (c) No Recreational Marijuana Business in Building With Residences or Residential Zone Districts. It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development that includes a residence.
- (d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any person to permit retail sales within a recreational marijuana business that is not a licensed recreational marijuana center.
- (e) Separation From Schools and Other Facilities.
 - (1) No recreational marijuana ~~center business~~ license shall be issued for a recreational marijuana center at a location within one thousand feet of any public or private elementary, vocational, or secondary school, or a college, university, or a state licensed day care center, or an addiction recovery facility. Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or named facility.
 - (2) ~~No license for a recreational marijuana cultivation facility, a marijuana-infused product manufacturer, or a marijuana testing facility shall be issued for a location within five hundred feet of the real property comprising an elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a state licensed day care, or an addiction recovery facility. This restriction shall not apply to a medical marijuana cultivation facility that had submitted an application or held a license by the city on October 22, 2013.~~
 - (3) No recreational marijuana business license shall be issued for a recreational marijuana business at a location within five hundred feet of three other marijuana businesses.
 - (4) No recreational marijuana business license shall be issued for a recreational marijuana center at a location on the street level of the mall or the University Hill commercial area.
 - (5) Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other recreational marijuana business.
 - (6) To determine the proximity to other recreational marijuana businesses and the priority of applications, businesses shall have priority in the following order:
 - (A) Licensed medical marijuana businesses;
 - (B) Marijuana establishment;

- (C) Businesses for either medical or recreational business whose applications have been approved but licenses not yet issued;
 - (D) Applications for medical or recreational marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
 - (E) No other applications shall be considered "businesses" for this determination.
- (7) Businesses that convert all or part of a medical marijuana business pursuant to Subsection 6-16-3(f) of this code are not subject to Paragraphs (1), (2), and (3) of this subsection. This exception is not transferrable.
- (8) For purposes of this paragraph, school, college, or university shall include properties owned by such entities only if they are used to provide services, teaching facilities, or living facilities to students. No distance is required between a marijuana business and properties owned by a school, college, or university that are not used to provide teaching facilities, living facilities, or services to students.
- (f) Limitations on Dual Licenses. A recreational marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981, or a marijuana business license under this chapter or Chapter 6-14, "Medical Marijuana," B.R.C. 1981.
- (g) Limitations on Recreational Marijuana Centers and Co-Located Marijuana Center. The following shall be the minimum requirements for a recreational marijuana center and a co-located marijuana center:
- (1) The area of the business is less than or equal to three thousand square feet, and the restricted area components of the required security and all paper and electronic records are one thousand square feet or less;
 - (2) ~~The business does not sell or distribute anything other than marijuana and marijuana products or marijuana accessories except as permitted by Section 6-16-8(p)(1) and~~
 - (3) There is a separate reception area for verification of age.
- (h) Limitations on Recreational Marijuana-Infused Product Manufacturers and Marijuana Testing Facilities. The area of the premises may not be more than fifteen thousand square feet.
- (i) Limitation on Cultivation Facility Licenses. No licensee shall hold licenses for more than five marijuana cultivation facilities. This limitation limits the total number of cultivation facility licenses, including both licenses for medical and recreational marijuana cultivation facilities. The area of the premises of a cultivation facility may not be more than fifteen thousand square feet.

Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015)

6-16-8. - Requirements Related to Operation of Recreational Marijuana Businesses.

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the recreational marijuana business.
- (b) Restriction on Access to Business.
 - (1) No person under twenty-one years of age shall be in the business premises. No person shall be allowed entry into the business premises area without showing a valid picture identification. Recreational marijuana centers ~~The business~~ shall have an electronic scanner able to verify the legitimacy of the identification and maintain records for enforcement, as approved by the city manager. If a person does not have a valid picture identification ~~that the electronic scanner recognizes as legitimate as verification~~ that the person is at least twenty-one years of age, the owner or ~~business manager~~ keyholder on the premises shall require that the person leave the business and any surrounding area possessed or controlled by the business. In the event the person has a valid

government-issued proof of age that cannot be scanned, such as a passport or military ID, the business shall be allowed access so long as the ID reasonably appears to be accurate and valid.

(2) No person, other than an employee or contractor of the business or a visitor shall be permitted in the restricted area of the business. For purposes of this subsection, a visitor means a person that is accessing the restricted area for educational purposes-. No access to the restricted area may be permitted by tourists or for compensation. The business must require that all visitors comply with all requirements for access to limited access areas as required by the Colorado Marijuana Enforcement Division. The log required shall be maintained on the business premises and available for inspection upon request by the city.

- (c) Display of Licenses Required. The name and contact information for the owner or owners and any ~~business manager~~keyholder of the recreational marijuana business, the recreational marijuana business license, and the sales tax business license shall be conspicuously posted in the business.
- (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a recreational marijuana business and shall not be visible from the exterior of the business.
- (e) Owner or ~~Business Manager~~Keyholder Required on Premises. No recreational marijuana business shall be managed by any person other than the licensee or the ~~business manager~~keyholder listed on the application for the license or a renewal thereof. Such licensee or ~~business manager~~keyholder shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person. In the event the licensee intends to employ a ~~business manager~~keyholder that was not identified on the license or renewal application, the licensee shall report the name of such ~~business manager~~keyholder to the city, and such ~~business manager~~keyholder shall submit to the city, at least thirty days prior to commencing serving as the ~~business manager~~keyholder, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in ~~business manager~~keyholders at least thirty days prior to employing an additional ~~business manager~~keyholder, and no more than five days after a ~~business manager~~keyholder is released from such position. In the event the licensee submits a completed application for the new keyholder with a copy of a valid Occupation Key Bbadge issued by the state Marijuana Enforcement Division, the applicant may work as a keyholder for the licensee upon submission of the application up until final city determination is made on such application.
- (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of ~~107~~ p.m. and 8 a.m. Provided however, in the event that a planned delivery of marijuana cannot be completed on the day scheduled, the marijuana may be returned to the center.
- (g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a recreational marijuana business. A recreational marijuana business shall comply with all applicable law regarding use of pesticides, including, without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.
- (h) 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.
- (i) Renewable Energy Usage Required. A marijuana business shall directly offset one hundred percent of its electricity consumption through the purchase of renewable energy or carbon offsets, a verified subscription in a Community Solar Garden, or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For a recreational marijuana center that has converted pursuant to Subsection 6-16-3(f) or co-located pursuant to Subsection 6-16-3(g), or a marijuana-infused product manufacturer licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the marijuana business license following October 22, 2013.

- (j) Limitations on Inventory. The recreational marijuana business shall not maintain any more marijuana within the premises than the amount stated on the business' license application to the State of Colorado and city. No plants shall be located in a recreational marijuana center or a marijuana-infused product manufacturer or a marijuana testing facility. In addition, the establishment shall not maintain any more marijuana within the restricted area than:
- (1) Cultivation facility: one thousand plants, provided, however, a cultivation facility may have more than one thousand plants, not including immature plants, if the licensee provides an additional enforcement fee in an amount of \$1 per plant over one thousand plants. Such fee shall be payable annually at the time of licensing and renewal; or
 - (2) MIP: six hundred pounds of marijuana that has not been incorporated into a product and one hundred fifty pounds of marijuana-infused products; or
 - (3) Testing facility: one hundred pounds of raw marijuana and one hundred pounds of marijuana-infused product.
- (k) Reporting Requirements. A recreational marijuana business shall report to the recreational marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.
- (1) Transfer or change of financial interest, ~~business manager~~keyholder, or financier in the license to the city at least thirty days before the transfer or change;
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly;
 - (3) A violation of any law by any licensee or applicant of a recreational marijuana business;
 - (4) A notice of potential violation of any law related to the licensee;
 - (5) Any report that the recreational marijuana business is required to provide to the State of Colorado; or
 - (6) Reports of all criminal activities or attempts of violation of any law at the recreational marijuana business or related thereto shall be reported to the Boulder Police Department within twelve hours of occurrence.
- (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed marijuana business, aAll sales of recreational marijuana shall be made in person in the restricted area of a recreational marijuana center. All marijuana sales shall be in person, directly to the purchaser. No marijuana sales shall be made via telephone, internet, or other means of remote purchase. Deliveries of marijuana shall occur only in person to the purchaser at the time of purchase in the restricted area of a recreational marijuana center.
- (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to transport recreational marijuana, except as specifically allowed by applicable law, unless the recreational marijuana being transported meets the following requirements:
- (1) All marijuana-infused products are hand-packaged, sealed, and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section;
 - (2) All recreational marijuana in a usable form is packaged and stored in closed containers that are labeled as provided in this section;
 - (3) Each container used to transport recreational marijuana is labeled with the amount of recreational marijuana or marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the recreational marijuana business that the recreational marijuana is being transported from, and the name and address of the recreational marijuana business that the recreational marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label;

- (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be transported with proper bill of sale completed before transport only to another recreational marijuana business:
 - ~~(A) From a cultivation facility to a recreational marijuana center or marijuana-infused product manufacturer, and which recreational marijuana business is owned by the same person who owns the cultivation facility;~~
 - ~~(B) From a cultivation facility to another recreational marijuana cultivation facility;~~
 - ~~(C) Between one recreational marijuana center to another center; or~~
 - ~~(D) Between a marijuana-infused product manufacturer and a medical or recreational marijuana center.~~
- (5) The recreational marijuana must be accompanied by the manifest ~~and confirmation email from the State of Colorado~~ in accordance with state requirements for transportation of recreational marijuana;
- (6) The recreational marijuana must be accompanied by the email receipt confirmation from the Boulder Police Department in accordance with the rules therefor established by the police department;
- (7) When determining and reporting the route for delivery, licensees should select the most direct route that provides efficiency and safety; and
- (8) Transport may occur only during the hours allowed for operation of the center.
- (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the recreational marijuana plants within a recreational marijuana business may be mature, flowering plants.
- (p) Advertisement. A recreational marijuana business may not advertise in a manner that is misleading, deceptive, false, or designed to appeal to minors. The following conditions shall apply:
 - (1) Except as otherwise provided in this paragraph, it shall be unlawful for any person licensed under this chapter or any other person to advertise any recreational marijuana or recreational marijuana-infused product anywhere in the city where the advertisement is in plain view of, or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition set forth in this paragraph shall not apply to:
 - (A) Any sign located on the same zone lot as a recreational marijuana center which exists solely for the purpose of identifying the location of the recreational marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address of the center;
 - (B) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet, which may include coupons;
 - (C) Any products marked with the name or logo of ~~the licensed recreational marijuana center~~ marijuana business, including wearable or non-consumable merchandise, packaging in which marijuana is sold, or on recreational marijuana accessories sold; or

- (D) Advertising which is purely incidental to sponsorship of a charitable event by a recreational marijuana ~~center or a recreational marijuana infused products manufacturer or a marijuana testing facility.~~ Business.
- (E) A booth at a job fair or educational seminar where the only items distributed are company-related or educational materials, and no other items are distributed shown or sold.
- (F) A booth at an adult event where the only items distributed are educational materials no other items are distributed, shown or sold.
- (2) It is an affirmative defense if a recreational marijuana business employee provided another individual, upon request, a business card for the purpose of providing that person's name and business affiliation, including, without restriction, title, mailing address, email address, and telephone number;
- (3) No marijuana business shall distribute or allow the distribution of any marijuana or products marked with its name or logo without charge within a marijuana business or any place open to the public for the purpose of promotion or advertising except as permitted in subsection (1)(E) and (F) of this section (p);
- (4) 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 except as permitted in subsection (1)(B) of this section (p); and
- (5) No recreational marijuana business shall sell, distribute, or provide, or allow the sale, distribution, or provision of, products marked with its name or logo, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors.
- (q) The owner or a ~~business manager~~ keyholder of a recreational marijuana business is required to respond by phone or email within twenty-four hours of contact by a city official concerning its recreational marijuana business at the phone number or email address provided to the city as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.
- (r) Separation of Marijuana Businesses. A cultivation facility and manufacturer are separate marijuana businesses requiring separate licenses and separate premises. A medical marijuana center or cultivation facility and a recreational marijuana center or cultivation facility are separate marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:
 - (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area;
 - (2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a recreational marijuana business and any adjacent business; and
 - (3) Obtain delivery documents and manifests for movement of any marijuana between the cultivation facility and the manufacturer.
- (s) Additional Requirements for Testing or Production of Recreational Marijuana.
 - (1) No recreational 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; and
 - (2) 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.

- (t) Packaging at a Recreational Marijuana Center. Provided that recreational marijuana has been delivered to a recreational marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a recreational marijuana center may package and label any marijuana that results from the sale of recreational marijuana in amounts less than as packaged for delivery to the center.
- (u) Packaging of Marijuana-Infused Product. Unless the actual amount of marijuana in a marijuana-infused product is contained on the label of the packaged product, any product over one ounce shall be presumed to have more than one ounce of marijuana in the product.
- (v) Scanner for Proof of Age. The recreational marijuana center 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 that contains all of the components approved by the city manager. For legitimate identifications that cannot be scanned, including passports, military IDs and other lawful government issued identification, use of the electronic ID scanner is not required, but the business shall be responsible for verifying that the identification provided is reliable verification of the age of the person.
- (w) Organization of Cultivation Facilities. All cultivation facilities shall be organized in orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and to exits.
- (x) Confiscation of Fraudulent IDs. If a licensee or an employee of a marijuana business has reasonable cause to believe that -person is under twenty-one~~one~~ years of age and is exhibiting fraudulent proof of age in an attempt to enter a marijuana business or to obtain any marijuana or marijuana product, the licensee or employee shall be authorized to confiscate such fraudulent proof of age. Within 72 hours, any fraudulent proof of age confiscated shall be turned over to -the Boulder Police Department
- (y) Virtually-separated centers or cultivation facilities. A virtually-separated marijuana business shall maintain separate marijuana business licenses, with separate books, records and inventories of all transactions. For purposes of sales, use and excise tax, all transactions shall be considered recreational marijuana unless the business can prove that the transaction was for medical marijuana. A virtually-separated marijuana business may not allow entrance to anyone under 21 years of age on the premises of the business. The floor plan for a virtually separated center shall depict the separate sales counters, display and storage areas for recreational and medical marijuana. A violation of any of the requirements of this code for a virtually separated business is a public safety violation.
- (z) Sale of Immature Plants. A medical marijuana center may not sell immature plants, unless (a) no more than six (6) immature plants are sold to any one customer, (b) the patient pre-orders the immature plants, and, (c) the immature plants are not transferred from the medical marijuana cultivation facility to the center until the day the patient is to pick up the immature plants and no immature plants are maintained at the center overnight. The business may require a deposit with any pre-orders.

Ordinance Nos. 7930 (2013); 7970 (2014); 8020 (2014); 8081 (2015)

6-16-9. - Right of Entry - Records to Be Maintained.

- (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements, including cancelled checks and deposit slips, and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and used for each sale. The records of the business shall clearly track

recreational marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any recreational marijuana from other paraphernalia or services offered by the recreational marijuana business. The licensee shall also maintain inventory records evidencing that no more recreational marijuana was within the recreational marijuana business than allowed by applicable law. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, and dates for all recreational marijuana sold.

- (b) ~~Separate Bank Accounts. The revenues and expenses of the recreational marijuana business shall not be commingled in a checking account or any other bank account with any other business or individual person's deposits or disbursements.~~
- (e) Disclosure of Records. By applying for a recreational marijuana business license, the licensee is providing consent to disclose the information required by this chapter. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
- (c) Audits. The city may require an audit to be made of the books of account and records of a recreational marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the recreational marijuana business. The expense of any audit determined necessary by the city shall be paid by the recreational marijuana business.
- (d) Consent to Inspection. Application for a recreational marijuana business license or operation of a recreational marijuana business, or leasing property to a recreational marijuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, to permit the city manager to conduct routine inspections of the recreational marijuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. The owner or ~~business manager~~ keyholder on duty shall retrieve and provide the records of the business pertaining to the inspection, including the security tapes from the cameras required by the security plan. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of recreational marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the recreational marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a recreational marijuana business license constitutes consent to inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a recreational marijuana license without a search warrant.
- (e) Reporting of Source, Quantity, and Sales. The records to be maintained by each recreational marijuana business shall include the source and quantity of any marijuana distributed, produced, or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and retail sales transactions, the following:
 - (1) Date, weight, type of marijuana, and dollar amount or other consideration of transaction;
 - (2) For wholesale transactions, the State of Colorado, and city, if any, sales and use tax license number of the seller; and
 - (3) The amount of marijuana within the restricted area.

- (fg) Reporting of Energy Use and Carbon Offset Purchases. The records to be maintained and submitted to the city on a quarterly basis, by each recreational marijuana business shall include, without limitation, records showing on a monthly basis the use and source of energy and the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewable energy acquisition program approved by the city manager. A statement of the projected daily average peak electric load anticipated to be used by the business and certification from the building owner or landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed. Such records shall include all statements, reports, or receipts to verify the items included in the report of the business. By application for a recreational marijuana business license from the city, the recreational marijuana business grants permission to providers of the energy or point of origin of the RECs or other renewable energy acquisition program to disclose the records of the business to the city. For recreational marijuana businesses that cultivate recreational marijuana the report shall include the number of certified RECs purchased, or the subscription level for another renewable energy acquisition program approved by the manager.

Ordinance No. 7930 (2013); 8081 (2015)

6-16-10. - Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored, and secured twenty-four hours per day. Except for a co-located marijuana business that is virtually separated, a separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) Cameras. The recreational marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms), and where persons may gain or attempt to gain access to marijuana or cash maintained by the recreational marijuana business. Cameras shall record operations of the business to the offsite location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within seventy-two hours of any change of such location.
- (b) Use of Safe for Storage. The recreational marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products or marijuana being tested in a testing facility that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe, so long as the container is affixed to the building structure.
- (c) Alarm System. The recreational marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and be updated within seventy-two hours of any change of monitoring company.

Ordinance No. 7930 (2013)

6-16-11. - Requirements for Public Health and Labeling.

- (a) Recreational Marijuana-Infused Products. The production of any marijuana-infused product shall be at a marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product

containing marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items as if the recreational marijuana-infused products were food items.

- (b) Labeling and Packaging Requirements. All recreational marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that ~~advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, and that the marijuana is intended for use solely by a person lawfully possessing recreational marijuana. The label shall be~~ is in compliance with all applicable requirements of the State of Colorado and any other applicable law.
- (c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

Ordinance No. 7930 (2013)

6-16-12. - Compliance With Other Applicable Law.

- (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession, or distribution of marijuana for recreational use shall also apply to recreational marijuana businesses in the city. Provided, however, that, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits 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 is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No recreational marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.
- (b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses, or if a recreational marijuana business is denied a recreational marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession, or other distribution of marijuana through recreational marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (c) Revocable Privilege. A recreational marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Ordinance No. 7930 (2013)

6-16-13. - Prohibited Acts.

- (a) Prohibited Acts. It shall be unlawful for any person to:
 - (1) Cultivate, distribute, produce, smoke, use, or ingest marijuana openly or publicly in a place open to the general public;
 - (2) Smoke, use, or ingest on the premises of the recreational marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous, and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges;

- (3) Operate or be in physical control of any recreational marijuana business, liquor establishment, vehicle, aircraft, or motorboat while under the influence of alcohol or marijuana or other intoxicant;
- (4) Possess more than six marijuana plants without a recreational marijuana business license for a cultivation facility;
- (5) Possess more than one ounce of a usable form of marijuana without a recreational marijuana business license for a center or a marijuana-infused product manufacturer;
- (6) Obtain marijuana for remuneration from a person who is not licensed as a recreational marijuana business;
- (7) Possess or operate a recreational marijuana business in violation of this chapter;
- (8) Produce, distribute, or possess more marijuana than allowed in this chapter, or than disclosed in the application to the State of Colorado for a recreational marijuana business license, or other applicable law;
- (9) Distribute marijuana for remuneration without a recreational marijuana business license or outside of the restricted area of the recreational marijuana business;
- (10) Possess recreational marijuana, or own or manage a recreational marijuana business, or own or manage a building with a recreational marijuana business, where there is possession of recreational marijuana, by a person who is not lawfully permitted to possess recreational marijuana;
- (11) Possess or operate a recreational marijuana business in a location or in a manner for which a recreational marijuana business license is prohibited by the terms of this chapter;
- (12) Operate a recreational marijuana business without a recreational marijuana business license from the city;
- (13) Operate a recreational marijuana business in a manner that is not consistent with the items disclosed in the application for the recreational marijuana business, or is in violation of any plan made part of the license application;
- (14) Operate a recreational marijuana business without disclosing, in the application for a recreational marijuana business license or an amendment thereto, an agent who either (1) acts with managerial authority, (2) provides advice to the recreational marijuana business for compensation, or (3) receives periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person;
- (15) Own or manage a recreational marijuana business where distribution occurs of a marijuana-infused product that was produced in a manner that is not in compliance with this chapter;
- (16) Operate a recreational marijuana business without a recreational marijuana business license prior to passing the inspection required by this chapter;
- (17) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city;
- (18) Attempt to use or display a recreational marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license;
- (19) Own or manage a recreational marijuana business in which another person cultivates, produces, distributes, or possesses marijuana, in violation of this chapter or any other applicable law;
- (20) Allow an owner or ~~business manager~~keyholder that has not been disclosed to the city as required by this chapter to operate the business;

- (21) Own, manage, or possess a recreational marijuana business where marijuana is outside of the restricted area portion of such business;
- (22) Possess a number of flowering plants that is more than one-half of the recreational marijuana plants that are lawfully possessed by a person;
- (23) Dispose of marijuana or any byproduct of marijuana containing marijuana in a manner contrary to this chapter;
- (24) Distribute a marijuana plant to any person, except as provided in this chapter for immature plants;
- (25) Deliver or transport marijuana to a person or between recreational marijuana businesses in a manner contrary to this chapter or other law;
- (26) Refuse to allow inspection of a recreational marijuana business upon request of a city employee or consultant of the city. Any licensee, owner, ~~business manager~~ keyholder, or operator of a recreational marijuana business, or the owner of the property where a recreational marijuana business is located, may be charged with this violation;
- (27) Advertise or publish materials, honor coupons, sell or give away products, or display signs that are in violation of this code;
- (28) Violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (29) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule, or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (30) Lease any property to a recreational marijuana business that has marijuana on the property without a recreational marijuana business license from the city;
- (31) Operate a private club where marijuana is possessed or used by any person at the private club;
- (32) Remove marijuana harvested from a plant from the enclosed, locked space where the plant was grown, except as provided in this chapter;
- (33) Distribute marijuana within a recreational marijuana center to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs;
- (34) Permit a minor on the premises of the business;
- (35) Fail to respond by phone or email as required by Subsection 6-16-8(q) of this chapter;
- (36) Produce any marijuana without a license from the city for a marijuana-infused product manufacturer;
- (37) Distribute, or contract to distribute, marijuana using any freight or package service, community rideshare, or other commercial transportation network, not including the United States Postal Service, unless such transporter has a license from the state to transport marijuana; or
- (38) Possess extraction vessels, and butane, propane, compressed CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used in the production of solvent-based marijuana concentrate, in the same premise as marijuana without a license from the city as a marijuana-infused product manufacturer or a marijuana testing facility.
- (39) Printing or allowing the printing of a coupon that is not a newspaper, magazine, or other periodical of general circulation within the city or on the internet.
- (40) Failure to provide a copy or record of a coupon authorized under this chapter upon request of an authorized city employee.

(41) Failure to confiscate fraudulent proof of age. It shall be an affirmative defense if the person reasonably believed that attempts to confiscate a fraudulent proof of age would cause a threat to any person or disruption to the business.

(42) Failure to post the premises during a suspension.

(43) Distribute any consumable product, other than bottled water, that is not a marijuana-infused product.

- (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, mental confusion, slowed responses, rigid muscles, body tremors, or dry mouth, or any other indicators of impairment.

Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015)

6-16-14. - Suspension or Revocation of License; Imposition of Fines.

- (a) A recreational marijuana business license may be suspended or revoked for any of the following violations:
- (1) Conviction of the business, a licensee, or any owner, ~~business manager~~keyholder, or financier of any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the city related to the recreational marijuana business;
 - (3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application;
 - (4) Distribution of recreational marijuana, including, without limitation, delivering or transporting marijuana, in violation of this chapter or any other applicable law, rule, or regulation;
 - (5) Operation of a recreational marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule, or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
 - (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter;
 - (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, ~~business manager~~keyholders, financier, or agent;
 - (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or Colorado Department of Public Health and Environment, or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law;
 - (9) Revocation or suspension of another recreational marijuana business license or any other license issued by the city, the State of Colorado, or any other jurisdiction held by any licensee of the recreational marijuana business; or
 - (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.

- (b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.
- (c) Civil penalties for violations of this chapter may be imposed by the city against the person or any licensee up to \$5,000 per person and any licensee per occurrence. Any person or licensee subjected to civil penalties or revocation or suspension of its license shall be entitled to a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, to contest such penalties. All such hearings shall be conducted by the Boulder Municipal Court as the hearing officer under a de novo standard of review.
- (d) If the city revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Boulder Police Department.
- (e) In the event of the suspension of a marijuana business license, the marijuana business, during the suspension period,:
 - (1) Shall post two notices as provided by the Marijuana Licensing Authority, in conspicuous places, one on the exterior and one on the interior of its premises for the duration of the suspension; and
 - (2) Shall not distribute or produce or test or transport marijuana, nor allow any customers into the licensed premises. ~~the business shall post: City licensing will prepare and supply the poster~~

Ordinance Nos. 7930 (2013); 7970 (2014); 8081 (2015)

6-16-15. - Term of License - Renewals - Expiration of License.

- (a) Term of License. A recreational marijuana business license shall be valid for one year. The license shall expire on the date stated on the license, but no more than twenty-four months, to facilitate the administration by the city of renewals and coordinate with the date for renewal of the state license of such licenses.
- (b) Renewal of License. The licensee shall apply for renewal of the recreational marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application if the applicant submits a late filing fee of \$5,000 at the time of submittal of the renewal application.
 - (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
 - (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
 - (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any ~~business manager~~ keyholder, financier, agent as defined herein, or employee, has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed, and the disposition of the violation with the renewal application.
 - (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
 - (5) The renewal application shall include verification that the business has a valid state license and the state license is in good standing.

- (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the police report numbers or case numbers of all police calls to the recreational marijuana business; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.
- (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
- (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-16-4(e) of this chapter.
- (c) Nonpayment of Tax. In the event a recreational marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the recreational marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.
- (d) Expiration of License. Expiration of a recreational marijuana business license for any reason, including, without limitation, pursuant to Subsection (c) of this section, shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

Ordinance No. 7930 (2013)

6-16-16. - City Manager Authorized to Issue Rules.

The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Ordinance No. 7930 (2013)

Chapter 4-20 Fees

4-20-64

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()	Modification of Premises – as classified in Table 1:.....	3,000.00
	Major	\$1,100
	Minor.....	\$250
	MIP Minor.....	\$500
	MIP Major.....	\$1,500

If a proposed modification does not fit precisely into one of the categories on the table of major and minor modifications adopted by city manager rule, the fee due shall be the same as the most similar category.

4-20-67. - Recreational Marijuana Businesses.

Application and license fees for recreational marijuana businesses shall be up to the following amounts:

...

<u>() Modification of Premises – as classified in Table 1:.....</u>	<u>3,000.00</u>
<u>Major</u>	<u>\$1,100</u>
<u>Minor.....</u>	<u>\$250</u>
<u>MIP Minor.....</u>	<u>\$500</u>
<u>MIP Major.....</u>	<u>\$1,500</u>

If a proposed modification does not fit precisely into one of the categories on the table of major and minor modifications adopted by city manager rule, the fee due shall be the same as the most similar category.

~~(9) Modification of premises~~

~~(A) Minor, including replacement of existing equipment that does not change requirements of ventilation or security plans, adding electrical power or outlets that does not require a service upgrade or a new panel or subpanel at a center or cultivation facility.....\$500.00~~

~~(B) Major – all modifications that (i) are not minor, or (ii) require a building permit or (iii) change the designations of areas on the dimensioned floor plan, or (iv) constitute a material change as defined by the Colorado Marijuana Enforcement Division\$3,000.00~~

...

The application fee, operating fee, costs, excess plant fee, and renewal fee paid are nonrefundable. The new license fee may be refunded if the new license application is denied. No fee will be refunded in the instance of suspension or revocation.

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
1	General Advertising	Limited ability for marijuana businesses to market their brand/logo for advertising purposes. Businesses want to be able to "brand" their name and logo through merchandise, signs, printed materials and other means. Research demonstrates the significant impact advertising (including some forms of coupons) and branded merchandise of substances plays on youth intent to use, initiation, and ongoing use. Therefore a balanced approach is necessary to avoid unintended consequences of increased use among youth.	May not advertise in a manner appealing to minors. 6-14-8(p) and 6-16-8(p): Prohibits advertising that is "misleading, deceptive, false, or designed to appeal to minors." Allows advertisement in newspaper, magazine, or other periodical of general circulation within the city or on the internet. No other advertising.	Changes to specific categories of advertising as noted below, but prohibited from advertising outside of the exceptions.		Need to define what is meant by "appealing to youth."
2	Discounts/coupons	Prohibits use of coupons and/or discounts (1) Includes coupons, free merchandise, swag (2) Businesses want to be able to have customer show affiliation (Bolder Boulder, veteran, birthday, etc.) in exchange for discount. Coupons that are distributed in a leaflet form or posted in public view serve as an advertisement that cannot meet the existing rules limiting advertisement where audiences are no more than 30% of viewers are minors.	Prohibits requiring a coupon (paper or e-copy) or exchange of anything to obtain the discount. Leafleting cars, handing out flyers, ads on vehicles, or handheld signs or sign spinners are not allowed. Stated in general, not just for coupons. Code cite same as above.			
3	Education	Businesses want to be able to distribute instructions for use of products and educational materials with the business logo and other information particular to the business. Distribution of educational materials by businesses is encouraged. However, the materials should be developed by a public or non-profit organization and should not be branded with business logos, which would further serve as a form of advertising.	Does not limit the distribution or display of educational materials provided by marijuana business or other parties or instructions for use of product so long as it does not have a brand logo. Does prohibit anything that would be considered advertising, handbill or leaflet. Code cite same as above.	Allow businesses to distribute within the store or at approved events that occur outside store. ("approved event" = approved under city code) educational materials created and provided by public agencies or non-profit organizations without marijuana business branding.		
4	Sponsorships/ Events	Businesses want to participate as a sponsor by being able to have booths, signs and distribute written or tangible materials (swag) with their logo brand. Sponsorship is encouraged, but advertisement within sponsorship should be limited, especially in locations or at events where more than 30% of participants are minors or controlled access is not achievable.	Not currently allowed to participate in or host an event as a marijuana business. 6-14-8(p)(1)(D) and 6-16-8(p)(1)(D) - Advertising which is purely incidental to sponsorship of a charitable event is allowed (can be listed as event sponsor in print, posters and t-shirts as is any other sponsor when all sponsors listed; may not have individual recognition as sponsor by separate banner, booth, print materials) but may not separately advertise at non-profit events. No booth or flyers or separate banner.	1) Clarify definition of "incidental." 2) Allow participation in booths (not events) to distribute informational material. 3) Adopt state rule that no more than 30% of participants can be minors.		

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
5	Job Fairs	Unintended consequence - Prohibition on advertising prevents distributing materials for employee recruitment at job fairs.	Restrictions in advertising/sponsorship do not permit booths or handouts. Code cite same as above.	Amend city code to allow for job fair exceptions: a) allow company-related materials and handouts at job fairs aimed at employees over 21 years of age; b) note that at least 70% of the audience at the job fair must be reasonably expected to be over 21 years of age. This applies to all job fairs; c) define "job fair and reasonably expected."		
6	Signs	Not allowed off-site	None off-site. A sign with the business name and business address only is allowed at the business location. 6-14-8(p)(1)(A) & 6-16-8(p)(1)(A) & 9-9-21 (sign code)	Panel did not seek change		
7	General Merchandise	Panel agreed to support sustainability of the marijuana industry by allowing sales of additional products while remaining protective of our advertising goals.	6-14-8(p)(1)(C) and 6-16-8(p)(1)(C): Allows any products with brand/logo of MJ center, including wearable and non-consumable merchandise, packaging in which marijuana is sold, or on recreational marijuana accessories sold. Doesn't allow products of other brands/logos other than marijuana business. No marijuana business shall sell, distribute, or provide, or allow the sale, distribution, or provision of, products marked with its name or logo, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors.	Allow sale of any non-consumable merchandise, including merchandise that is not marijuana or marijuana accessories, at medical or recreational marijuana retail facilities, whether or not the merchandise is branded.	Differs from laws limiting what liquor stores can sell.	
8	Merchandise	Businesses want to be able to sell merchandise other than marijuana and marijuana accessories. They also want to be able to sell non-branded and branded merchandise of other marijuana brands and not just their own brands.	6-16-8(p)(1)(C) - Permits sale of branded merchandise by license/store (i.e. but limited to only your store brand) Selling of wearable or non-consumable merchandise with the business name and logo on it, sale of MJ, and MJ accessories is allowed. No sale of products marked with its name or logo.	Align with state = can sell any merchandise except consumables. No free swag.	Same as above.	
9	Branded marijuana merchandise	same as above	Allows businesses to sell its own branded merchandise of the business, but not other marijuana businesses.	same as above.		
10	Unbranded marijuana merchandise	same as above	Sales of unbranded marijuana merchandise not allowed.	same as above.		
11	Merchandise unrelated to MJ	same as above	Does not allow sale of products others than marijuana and marijuana accessories (constitutional language).	same as above.	same as above.	
12	Sales					

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
13	Labeling of product	The state has now adopted labeling requirements which are staged to go into effect in July and Oct. 2016, so Boulder's provisions requested by patients will be no longer be necessary.	6-14-11(b)(3) - statement label conflicts with Rule 1004.5(b)(1)(j)(ii); live Oct. 2016 (3) 6-14-11(b)(2) - city is more specific on label where state is vague Rule 1004.5(b)(1)(k); live Oct. 2016	Align with State = remove city labeling requirements to coordinate timing when state requirements become effective.		
14	Sale of Clones	Marijuana businesses would like to be able to sell marijuana seeds and plants to customers.	Any germinated seed is a plant, and plants may not be stored or sold at medical/rec sales locations. 6-14-2 definition of "Medical Marijuana Plant" and 6-14-13(26) "Prohibited Acts"; 6-16-2 definition of "Recreational Marijuana Plant" and 6-16-13(24) Prohibited Acts.	Sale of clones is allowed. Pre-orders and same day pickup is required. Prepayments or deposits are allowed. Customers are allowed to purchase a max of 6 clone plants.		
15	Seeds	Confusion on interpretation issue resolved. Seeds are treated like flower for excise tax purposes at both city and state levels. Sales are based on weight allotments.		no change		
16	<i>Business Operations</i>					
17	Term "business manager"	The use of the term "business manager" is creating an unintended consequence: the term is leading employees to demand higher pay because of the title of "business manager."	6-16-2 - individual designated by owner as the person responsible for all operations of the business in the absence of the owner.	Change all references in Boulder Code and applications from "business manager" to "keyholder."		
18	Background checks - (1) eliminating 30 day waiting period (2) background criteria.	(a) Employees must wait 30 days before he/she can serve as a keyholder (manager) while a background check is performed (b) Unintended consequence: for businesses, this either requires owners to be on-site when a keyholder leaves that business, or qualify more employees as keyholders in case any one of them leaves the business. Boulder's interest has been to make sure that unqualified employees were not in charge of the operation of a city licensee.	Requires 30 day waiting period, higher background check criteria requirements than the state, and an objective rather than subjective review.	For business managers: (1) Eliminate 30-day waiting period for business mgr background checks by submitting a copy of the State MED Key Badge with city's "keyholder" application; (2) Panel agreed to adopt staff's suggested changes to background criteria. Attached as Exhibit 1.		

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
19	Hours of operation	Current hours of operation cause two issues: (1) competitive disadvantage w/other Colorado dispensaries because they can stay open later; and (2) operationally, it only provides the ability for employees to do transport and METRC corrections during hours of operation, inhibits employees from doing all the supplemental work necessary to comply with METRC reporting and labor.	6-16-8(f) - medical marijuana sales allowed from 8am - 7pm. 6-16-8(f) - recreational marijuana sales allowed from 8am - 7pm. 6-16-8(m)(8) - transport only allowed during hours of operation. County: allows sales from 8am - 10pm. State: allows sales until midnight.	Extend hours of operation to 10:00 p.m. Include additional requirement related to effective mitigation planning on the existing required neighborhood responsibility plan. Staff amended the form and the panel approved the changes. It reads in part, "(c) Effective Mitigation Planning: Describe how the MJ business will effectively mitigate neighborhood impacts to surrounding residences and businesses, including but not limited to, noise, traffic, crowding, lights, public consumption related to their business." Also requires a change to code 6-14-5(6)(C) and 6-16-5(6)(C) to add "effective mitigation of community impacts."	Concern about the ability to enforce neighborhood responsibility plan and mitigate impacts to residential areas. Area of high number of complaints to city.	
20	Visitors	Ability to allow non-licensees to be in restricted area: the city code makes exceptions for contractors, but not for consultants or judges/juries to be in restricted area.	6-14-8 No person, other than a patient, licensee, employee, or a contractor, shall be in the restricted area.	Align with state code = no for-profit tours. No for-profit tours. Not allowed for tourism and include state code procedure (i.e., use of log books is required).		
21	Combined HVAC system and other systems where building code allows	Required to have separate ventilation in a co-located business; 2 HVACs where 1 stronger unit would be more efficient.	6-16-8(h) - ventilation required 6-16-8(r)(1) - separate ventilation required	Create a city code exception to allow for combined HVAC systems for co-located business.		
22	Maintaining back-up of surveillance tapes	Confusion by licensees clarified by staff. No need to change city code. State requires back-up for at least 40 days and city requires only 30 days.	6-16-10(a) - recordings maintained for a minimum 30 days.	Increase City requirement from 30 to 40 days.		
23	Permanent modifications	Businesses request a clarification in regards to what qualifies as a permanent modification, as well as a tier system approach to minor and major modifications and fees.	Requires an application and approval for permanent modification for any change to the business documented floor plan or any other plan submitted with the license and made part of the application, or operation of the businesses. 4-20-64(h) and 67(9).	See Exhibit 2 - Permanent Modification Chart		

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
24	Virtual and physical separation	Businesses do not want a physical separation between medical and recreational in retail locations and cultivation facilities; want virtual separation.	Co-located medical and recreational retail centers must be physically not just virtually separated. 6-16-3(d).	Allow co-located retail and cultivation facilities to be virtually separated and eliminate physical separation requirement. Business will have to verify that they are maintaining separate books as provided in 6-16-9 for each license issued by the city.	City's objection is effect on ability to audit. Just discovered that businesses are co-mingling books which eliminates ability to audit and virtual separation will compound this.	Pat Brown, Revenue and Licensing Officer, will meet with Marijuana business financial people to clarify expectations of bookkeeping and auditing. City will provide a seminar on this in 30 days.
25	<i>Licenses</i>					
26	Transfer license to new owner	Prohibition of transfer/sale of license.	6-16-3(e) - Can sell stock/memberships but not entity.	Allow sales and transfers of inventory (with authorization by state), assets, and infrastructure that are portable to other locations; allow licenses to retain grandfathered provision, the license remains in the same physical location. Can sell business entity and transfer license for that location to new entity.	Recommendation does not create an exemption to compliance with non-conforming use standard. Staff needs to be able to conduct background checks before transfer. No other licensees transferable, except liquor that is governed by state law. Panel also wanted to propose change to allow transfer of business to new locations, but that would trigger land use issues and will need to be addressed separately with the other proposed changes to land use. 6-14-3(e)(3)	
27	Transporting MJ product among MJ licensed businesses	(1) City code defines which MJ businesses MJ may be transferred to; (2) Not at issue for city since the state eliminated vertical integration, the limits on which licensed MJ business MJ is being transferred to and from is not an issue; (3) Issue: Boulder's enforcement issue is that city police be able to determine quickly whether the MJ in a vehicle is legal or not; the e-mail bounce back of the manifest is sufficient monitoring when MJ is being transported among licensed businesses.	6-16-8(m)(5) - MJ "must be accompanied by the manifest and confirmation email from the State of Colorado" 6-16-8(m)(6) - MJ "must be accompanied by the email receipt confirmation from the Boulder Police Dept."	Remove restrictions related to transfer of product or plants by: (1) Eliminating subsections of 6-14-8(m)(4) A-D; (2) Eliminating subsections of 6-16-8(m)(4) A-D. No change to requirement for city e-mail bounceback.		Note new Law: Transporter License: Jan. 1 allowed, must be licensed by July 1. This panel won't be able to address this b/c still need to go through rulemaking, etc. and the state may not even give the city the ability to regulate transporters.
28	Applications for MIP licenses to include locations of the grow supplying at least 70% of the marijuana.	MIPs no longer have to prove that 70% of product comes from their cultivation facilities.	6-16-5(a)(16)	Remove 6-16-5(a)(16) - not necessary since 70/30 rule was removed Nov. 2015.		
29	Posting for suspension periods	City Licensing has not imposed suspensions, but the municipal court has done so. For liquor licenses suspended, posting on the property is required during the suspension period. Likewise, MJ licenses should be required.	Not currently addressed in city code.	Add to city code requirement of posting during periods of suspension (similar to liquor licensing).		
30	Schedule of Penalty Guidelines	It is important for staff to have penalty guidelines in order to be consistent in penalty assessment. It is also beneficial to marijuana businesses so that they are aware of the potential penalty depending on the type of violations. There is perception that there is a list of subjectivity in enforcement.	Penalty Guidelines are not part of the Code. (They have always existed; they just are not part of the code for marijuana or any other penalty schedule).	Guidelines for Penalties. Attached as Exhibit 3 .		

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations	Outstanding issues
31	Max # of dispensary/center licenses held by one MJ owner	Businesses want to be able to own more marijuana businesses in the city.	6-16-6(a)(9) - The same business owner cannot own more than one each of dispensary and center.	Allow for up to 3 addresses of dispensaries/centers per owner. This could be up to 6 separate licenses if each location was co-located medical and recreational.		
32	<i>IDs</i>					
33	Not all IDs can be read by scanners	Not all IDs can be scanned: Military IDs, passports and passport cards, tribal/Native American cards with all appropriate info, some US territory driver's licenses, and worn barcodes are not scannable and therefore impossible to comply with law.	6-16-8(b) requires all identification to be verified by using an electronic scanner.	(1) Add provisions to Boulder Code to recognize that some legitimate IDs cannot be scanned, but may be reasonably relied upon by the licensee. Language would read something to this extent - "If it can scan, you must scan. If not, visual confirmation is mandatory." (2) Make it mandatory for employee to take city ID check training or state responsible vendor training w/in 90 days of first day of work; applies to retail only, not MIPs or grows. Liquor licensees have 90 days to train new employees, and MJ license holders should have same amount of training time. (3) Create rule as to what classes are approved.		
34	ID scanners at grow/MIP	No need for scanners at MIPS or grows, but Code makes it mandatory to validate IDS with scanner.	6-16-8(v) - "marijuana business shall verify the proof of age" with a scanner.	Change 6-16-8(v) "marijuana business" to "recreational marijuana center" to clarify that scanners are not required at grows, MIPs, medical centers or testing facilities. If a recreational and medical center co-locate, a scanner is required.		
35	Confiscating fraudulent IDs	When a liquor licensee is shown a fraudulent ID, normal practice is to confiscate the ID and send to BPD. This avoids the minor from being able to use the same ID at another location and helps prevent minors from obtaining liquor or businesses from being charged for serving a minor. This same requirement should apply to MJ regs.	not currently addressed in city code	Add to the city codes the same requirements of liquor licensees to confiscate fraudulent IDs and turn them into BPD.		
36	<i>Other misc topics</i>					
37	Odor regulations	All marijuana businesses are subject to odor regulations and must have proper ventilation so that odor cannot be detected outside the premise. The most frequent community complaint about mj businesses is odor.	6-14-5(a)(12) and 6-14-8(h); 6-16-5(a)(12) and 6-16-8(h).	No change recommended.	Building department inspectors work with licensees to best handle their odor. Penalties are not often imposed because most businesses can be mentored into compliance. The odor regs have been successful because they have mitigated odor that impacts non-mj businesses and nearby residents.	

Chart of Current Background Check Considerations and Changes Proposed by Subcommittee

Criteria Issue	No approval	Considered for moral turpitude	Approved
Current: Moral Turpitude violations of law	X		
Proposed: Moral Turpitude violations of law are notable but are incorporated into the below convictions criteria		X	
Non-drug Felony offenses			
Current: Felony violations of laws in the last 5 years (non-drug offenses)	X		
Proposed: Felony violations of laws in the last 10 years (non-drug offenses)	X		
Drug Related Felony Offenses			
Current: Felony violations of law for any drugs at any time	X		
Proposed: Drug Felony violation of law in past 10 years (non-marijuana)	X		
Proposed: Drug Felony violation of law in past 10 years that are no longer illegal (marijuana)			X (unless part of compilation of matters considered for good moral character)
Pattern of Arrests			
Current: Pattern of 5 or more arrests in past 10 years	X		
Proposed: Pattern of 5 or more arrests in the past 5 years	X		
Pattern of Violations of Law			
Current: In review with evidence of rehabilitation, any 1 of the following conviction in last 5 years: i) MJ misdemeanor, ii) obstruction/interference/eluding, iii) 3 or more misdemeanor convictions	X		
Proposed: 5 or more misdemeanor violations of law in past 10 years	X		

Sub-committee proposal to replace 30 Day Wait – So long as a city application and fees has been submitted, and a copy of the state green badge is submitted with the city application, the applicant can work/manage during the first 30 day period and continue in Boulder until final city determination is made.

Travis Question to City Staff: What does Boulder City need to feel safe in its “subjective” review of documents? Answer: We recognize we cannot identify every individual violation that may affect good moral character. However, we want to have a checklist so we are as consistent as possible among persons who apply.

Exhibit 2 to Attachment E (Permanent Modifications Chart)

Permanent Modifications Chart for Marijuana Businesses- Stores and Grows

August 3, 2016

<p>Non-Modification (inspection at renewal)</p> <p>No Fee</p>	<p>Minor Modification (once application filed, and required building permits are approved, may proceed on modification with inspection later scheduled)</p> <p>Application, Fee, and 1 Dept. Inspection</p> <p>Fee \$250</p>	<p>Major Modification (must be fully approved before modification can be fully utilized)</p> <p>Application, Fee and 4 Dept. Inspections</p> <p>Fee \$1,100</p>
<p>Installation of a Light fixture with existing source of power</p> <p>Upgrading existing equipment that does not require adding outlets, service upgrades or a new electric panel or subpanel</p> <p>camera cleaning and adjustments to maintain view of areas as required in security plan</p> <p>painting and cleaning</p> <p>Regular maintenance of systems (HVAC, irrigation), such as cleaning and replacing filters</p> <p>repair or replacement of equipment with same model not requiring building permit and not part of operational plan</p> <p>moving furniture not associated with MJ sale/service/storage</p> <p>carpet and tile replacement</p>	<p>Camera Addition, Removal or change of areas monitored and any change to the security system that does not require a change to the security plan</p> <p>Adding or removing a safe</p> <p>Adding, modifying or removing POS within room shown on floor plan</p> <p>Adding an outlet or other change to the electric system that does not require a service upgrade or a new panel or subpanel</p> <p>Grow Trays- adding additional square footage or moving location</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan and not within a MIP,</p> <p>Change of Room Designation with no structural changes</p> <p>Window replacement</p>	<p>Change to square footage, operating plan, floor plan or security plan</p> <p>Structural changes- walls, windows etc</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>Changes to the plumbing system that require changes to mold mitigation plan or wastewater plan</p> <p>Change to Room Designation with structural change</p> <p>Material change to sale, storage, or preparation of MJ</p>

Exhibit 2 to Attachment E (Permanent Modifications Chart)

Permanent Modifications Chart for Marijuana Businesses- Marijuana Infused Product Locations

August 3, 2016

The fee for Grows and Retail apply to MIPs except for the following:

<p>Minor Modification (once application filed, and required building permits are approved, may proceed on modification with inspection later scheduled)</p> <p>Application, Fee, Building IH confirm, and 1 Dept. Inspection</p> <p>Fee \$500</p>	<p>Major Modification (must be fully approved before modification can be utilized)</p> <p>Application, Fee, Building IH full review, and 4 Dept. Inspections</p> <p>Fee \$1,500</p>
<p>Equipment change as the only change to IH plan</p> <p>SOP change that does not require review by industrial hygienist</p> <p>New or change to equipment (HVAC, irrigation) with no effect on operation plan, floor plan or security plan or industrial hygienist plan</p>	<p>New, replacement or change of equipment or any change to process certified by industrial hygienist</p> <p>Any change to process certified by industrial hygienist</p> <p>Changes to the electrical system that require service upgrades or new panel or subpanel</p> <p>New or change to equipment (HVAC, irrigation) with effect on operation plan, floor plan or security plan or industrial hygienist plan</p> <p>A change to any equipment or system with flammable refinement</p>

**City of Boulder Draft Marijuana License
Penalty Schedule Guidelines - August 3, 2016**

The following is the Penalty Schedule that is used for guidance by the Boulder Marijuana Licensing Authority when proposing penalties. This schedule includes the most frequently occurring violations, but it is not an all-inclusive list of all possible violations of the Boulder Marijuana Codes.

The city Marijuana Enforcement team members are always available to answer questions beforehand about compliance from Boulder Marijuana businesses to ensure that their business operations remain compliant with our local law. Additionally, the City of Boulder offers MJ sales and service training for stores, key-holder training about city inspection requirements and enforcement trends, and MJ city tax requirement trainings so that Boulder Marijuana businesses can acquaint themselves with local laws and operating requirements and notices for these city trainings will be posted on the City of Boulder licensing office website.

Actual penalties may vary depending on a variety of factors such as mitigating or aggravating circumstances, efforts of business to correct the violation, or time between violations. Boulder marijuana businesses have a right of appeal for fine, suspension, and revocation recommended penalties, and if an appeal is timely filed a quasi-judicial hearing before a city municipal court judge will be held.

<u>Operational Infractions</u>	First Offense	Second Offense	Third Offense	Fourth Offense	Fifth Offense
Unsealed MJ possession by employees at licensed premise or acceptance of samples by employees	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
MJ product or plants not properly packaged for removal/transport or MIP products not properly labeled	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Unapproved goods sold at licensed premise	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
ID scanner not utilized and/or failure to properly verify ID for determination of age	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Refusing to remove key-holder from management when background is unapproved by city	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation
Failure to obstruct view MJ of sales or storage of MJ from public view	\$1,000 fine	\$2,500 fine	\$3,000 fine	\$5,000 fine	Revocation

Exhibit 3 to Attachment E - Penalty Guidelines

<u>Impact on Community or Safety Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Illegal Advertising	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
For Medical Marijuana wellness centers only, not having a private consultation room or not offering other holistic offerings at licensed location	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
No city approved key-holder or owner on-site	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Uncooperative with PD with inspections or investigations or misrepresentation to regulators	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Refusal to allow city inspections or premise access	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Sale of LLC shares or corporate stock in Boulder business or adding officers/managing members without proper and complete 30- day pre-file with the city	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Secure dispensing area not locked or restricted licensed location unlocked	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
MJ product transport details not emailed to BPD and email bounce back not printed for transportation by licensee	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Processing of MJ in violation of the Code (e.g. at store, at a grow or illegal processing at a MIP)	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to abide by neighborhood responsibility plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to remedy odor complaints	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
On-premise consumption by customers	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation
Failure to operate business in compliance with the license or its operating plan or security plan	\$2,000 fine	\$3,500 fine	\$5,000 fine	Revocation

Exhibit 3 to Attachment E - Penalty Guidelines

<u>Health, Safety, and Security Violations</u>	First Offense	Second Offense	Third Offense	Fourth Offense
Use of unapproved locking storage that does not qualify as a safe	\$2,500 fine	\$3,500 fine	\$5,000 fine	Revocation
Not making disposed of MJ unusable and unrecognizable and not locking disposal dumpsters	\$3,000 fine	\$4,000 fine	\$5,000 fine	Revocation
Not locking product or receipts in a safe for overnight storage	\$3,500 fine	\$5,000 fine	Revocation	
MJ or MJ product outside of a licensed premise	\$3,500 fine	\$5,000 fine	Revocation	
Making a permanent modification of the licensed premises without prior city approval	\$3,500 fine	\$5,000 fine	Revocation	
On-premise consumption by employees, managers or owners	\$3,500 fine	\$5,000 fine	Revocation	
Video unavailable, cameras not working, or 40 days video off-site storage copy unavailable	\$3,500 fine	\$5,000 fine	Revocation	
A person under the age of 21 in the licensed premises of a recreational marijuana business	\$3,500 fine	\$5,000 fine	Revocation	
Sale of MJ or a MJ product to a person under 21 years of age	\$4,000 fine	\$5,000 fine	Revocation	

Except for blatant violations including but not limited to selling to minors, it is the practice of the city Marijuana Enforcement Team inspectors to work with a business to assist with compliance before referring a violation to the Marijuana Licensing Authority.

When the city proposes revocation, on a case by case basis and balanced with the seriousness of the violations, repeated violations or lack thereof, the city may offer the licensee a one-time opportunity to sell the business to an already approved Boulder licensee with a good enforcement history and prior approved background checks. This will not be offered to a licensed business more than one time.

Mitigating factors include:

- The violation is a first offense with a single count
- the MJ business contacts the city with a plan for future compliance so that the business will not have future violations.
- the MJ business provides proof of training in responsible sales, fraudulent IDs, or other topics so that the business and its employees will avoid future violations.

Aggravating factors include:

- multiple counts or a repeat offense
- the violation occurs after the legal requirement has been explained to the licensee
- the licensee does not contact the city to present a plan for future compliance to avoid repeat violations.

	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Considerations
1	Sq. ft. limits	Square foot limitations on all types of MJ businesses (sales, grows, & MIPS).	6-16-7(g) - 3,000 sf retail 6-16-7(h) - 15,000 sf grow/MIP	There should be no limits on the square footage of cultivation facilities and MIPS.	
2	Density	Businesses do not want a limit on the number of MJ businesses that can be in proximity to other MJ businesses, schools, day care and rehab facilities.	No more than 3 MJ businesses w/in 500 ft. of each other. 6-14-7(f)(3); 6-16-7(e)(3)	There should be no density restrictions on cultivation facilities and MIPS. This does not apply to stores.	Diversity of business type had been an important principle to city council. Sustainability negatively affected by lack of diversity of businesses.
3	Setbacks	Businesses were concerned that the setbacks from schools, day cares and rehab facilities for all marijuana businesses unnecessarily restricted the places marijuana businesses could locate.	Dispensaries not permitted within 1000 ft of a school, day care, or rehab facility. 6-14-7(f)(1); 6-16-7(e)(1) MIPS and grows may not be within 500 ft of such facilities 6-14-7(f)(2); 6-16-7(e)(2)	The setbacks from schools, day cares and rehab facilities should not apply to cultivation facilities or MIPS because those businesses do not have public access or outdoor signage or presence that provides exposure to minors.	
4	Limit on size of cultivation facilities.	Businesses want to be able to combine up to 5 grows of 15,000 sf each into any combination of ownerships so could have 1 grow with 75,000 sf or 2 grows of 37,500 sf each, etc.	6-16-7(b)(3)	The 5 grow licenses that 1 licensee is allowed to hold should be able to be combined into any combination of locations to a total of 75,000 sf.	Contrary to council principle to prevent monopoly in Boulder. Requires amendment to title 9 to change zoning to allow over 15,000 sf.
5	Transfer license to new owner in <u>new</u> location	Businesses want the ability to transfer their license to a new owner in a new location.	6-16-3(e)(3)	Allow transfer of license to new location	additional issues than transferring a license in the same location. For instance, zoning restrictions, size/DENSITY/DISTANCE restrictions, and neighborhood effects. A new license is usually required for a new location rather than transferring an existing license with no land use review. This logic parallels the liquor code. If the transfer is for a new owner as well as

* MIPS (Marijuana Infused Products)

**Marijuana Advisory Panel
Meeting Agenda
October 16, 2017 - 9 am to 12 pm**

**Park Central - 1719 Broadway
Conference Room 401**

9:00 am Welcome

9:05 am Reports from Task Groups

- Tier structure to replace pay-per-plant
- Major and minor modifications
- Number of key holders required for virtually separated businesses
- 1,000 square-foot max for sales and storage in recreational marijuana dispensaries
- Advertising
- Carbon offsets

10:30 am Break

10:45 am Public Comment

11:00 am Draft Code Language on Agreements

11:30 am MAP Letter to City Council

11:45 pm MAP Next Steps

- Study Session with City Council
- Expectations for 2018

12:00 pm Adjourn

MARIJUANA ADVISORY PANEL
Thursday, September 14, 2017
Meeting Summary – FINAL

Attendance

Panelists: Leisha Conners-Bauer, Heath Harmon, Travis Howard, Keenan Jones, Will Lukela, Alana Malone, Andrea Mengehel, Bill Rigler, Loree Schwartz, Jane Theodore, Kate Thomson, Andy Tucker

City Staff: Rebecca Bostrack, Mishawn Cook, Kathy Haddock, Sandra Llanes

Facilitation: Heather Bergman and Katie Waller

Action Items

<i>Kathy</i>	<ul style="list-style-type: none"> • Write draft code language for all agreed-upon changes. • Research the context of size limitations for restricted areas and meet with Kate and Andrea to craft a proposal for the next meeting.
<i>Mishawn</i>	<ul style="list-style-type: none"> • Organize a meeting with Loree and Alana to come up with a proposed tier structure to replace the pay-per-plant structure and bring back proposal to the next meeting. • Organize a meeting with Kate, Alana, Will, and Andrea to discuss major and minor modifications. Bring back a proposal at the next meeting.
<i>City Staff</i>	Clarify the number of key holders needed for co-located and virtually separated businesses and talk with Travis, if necessary.
<i>Heath</i>	Organize a meeting with Kate, Andy, Leisha, Andrea, and Bill to discuss advertising, Bring back a proposal at the next meeting.
<i>Heather</i>	Send out a Doodle poll to schedule the next MAP meeting date.

Introduction

This meeting is intended to tie up loose ends from the previous 2016 – 2017 session. While changes were adopted in December, there are some issues that still need resolution. People submitted suggested change forms, which will be reviewed at this meeting, as well as any changes that came out of the most recent legislative session. There are two new members of MAP to represent the newly annexed marijuana businesses and the community. This meeting will not address larger policy changes, including but not limited to changes to Title 9, as those are better addressed in 2018 based on City Council’s direction. MAP members could contact members of the City Council to express their interest in prioritizing marijuana issues on the staff work plan for 2018. It was suggested that a letter from the entire MAP may have more influence than individual contacts. All MAP members attending agreed they would sign such a letter. Travis is writing the first draft for review by the MAP.

Suggestions for Change

Staff has been working with people in the marijuana industry to identify recommendations for changes to the code that were adopted in December. They have also worked to identify some issues with common ground. Below are the highlights of the discussions and next steps for each suggestion.

Suggested Change	Discussion	Next Steps
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<p>Businesses may post hours on signs.</p>	<ul style="list-style-type: none"> • This is fair business practice for marijuana businesses to display their business hours. • Law enforcement also interprets this as fair business practice. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>It is unlawful to sell to a person under 21.</p>	<ul style="list-style-type: none"> • This change would add selling recreational marijuana to someone under the age of 21 to the list of prohibited acts. • This does not apply to medical-only centers. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>A panic alarm required a dedicated phone.</p>	<ul style="list-style-type: none"> • Dispatch protocol needs a phone on the premise to ensure that the person triggering the panic alarm is not in harm's way. • A dedicated phone allows people to use any type of phone that is dedicated for this purpose and remains on the premises. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>One neighbor may complain for an odor violation to be investigated.</p>	<ul style="list-style-type: none"> • This is an enforcement issue. • The status quo is that enforcement officers may not investigate complaints of odor associated with illegal grows without three separate households registering a complaint. • This would allow enforcement officers to write a warning on a first occurrence and a ticket on the second occurrence. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>Corporate financiers that follow an investment fund structure do not need to disclose all individuals.</p>	<ul style="list-style-type: none"> • This was a request from City licensing that would align with the State regarding out-of-state financing. • As marijuana business financing structures have become more complicated, it has been more arduous to background check all contributors, even if they have no control of the investment of the money. • The language will be the same as the State. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>Businesses will submit a list of key holders at the time of license renewal.</p>	<ul style="list-style-type: none"> • The proposed process would be more similar to liquor licensing. • Currently, staff spends a significant portion of time in compiling lists of current key holders when they are requested by businesses. • The proposed change would require businesses to send in a list of key holders with their license renewal application to ensure consistency. • This does not impact who undergoes background checks. • Requesting a list outside of key holders would require a \$100 fee to offset staff time. 	<p>The Panel approved this change and staff will write code language to be reviewed at the next meeting.</p>
<p>Businesses do not need to</p>	<ul style="list-style-type: none"> • This was a leftover from the provisions prior to the state regulating packaging. 	<p>The Panel approved this change and staff will write code</p>

hand package products.	<ul style="list-style-type: none"> • This change allows businesses to use technology to package their products. 	language to be reviewed at the next meeting.
Businesses may transport after hours to accommodate the new transporter license.	<ul style="list-style-type: none"> • There is a new transporter license that allows businesses to transport after hours to distribute their product, but City code does not allow Boulder businesses to do this. • This language change would align with the State's language. 	The Panel approved this change and staff will write code language to be reviewed at the next meeting.
Marijuana businesses do not have to submit all State reports to the City.	<ul style="list-style-type: none"> • Sending all State reports to the City was time consuming for the businesses and City staff. • Marijuana businesses have been required to submit all State documents to the City as well. 	The Panel approved this change and staff will write code language to be reviewed at the next meeting.
Marijuana businesses do not have inventory limitations with a per plant annual fee.	<ul style="list-style-type: none"> • Cultivation facilities, marijuana-infused product (MIPs) currently pay \$1 per plant annually for all plants (except clones) over 1,000 plants. • It is unclear if current limitation of 1,000 is an arbitrary number or if it actually reflects changes in workload for staff. • The current restrictions are in place to defray the cost of taking down a large grow should the City not renew the license. • The license application fee should cover all of staff's costs to inspect a larger location, and this fee may be duplicative. • It is unclear how much this change would impact City revenue. • Roughly 25 to 30 percent of cultivation facilities pay the fee per plant, and this number is increasing as more industrial space becomes available. • Currently, the largest cultivation facility in Boulder has 4,000 plants. • Utilizing a tier structure would make more sense than a per-plant fee. • The State uses a tiered system with the lowest renewal fee being \$1,800, which increases geometrically based on size. • With access to marijuana enforcement tracking reporting compliance (METRC) data, a tiered system may make sense. • Larger facilities via consolidation may lessen the work for the City. • The license numbers for marijuana businesses in Boulder are increasing each year; they are not replacing each other. 	Mishawn will organize a meeting with Loree Schwartz and Alana Malone to come up with a proposed tier structure and will report back at the next meeting.

	<ul style="list-style-type: none"> • A 15,000 square-foot cultivation facility typically holds about 4,500 plants. • It would be useful to know the inspection times for different sized facilities. • Inspections time for larger facilities are larger due to increase number of cameras, vents, fire alarms, etc. Inspections can be very time consuming if the business cannot provide the necessary materials in a timely manner. • Incentivizing businesses to be prepared with inspection material in advance would incentivize good business practice. • Perhaps the City could bill on an hourly basis rather than per plant. • It seems that the license fee should cover the inspection expenses, since businesses pay for an additional insurance policy in case they get shut down. • This may be an opportunity for another fee study. • It would be unwise to make the inspections focused on finances rather than safety. • Businesses would rather know how much they are paying upfront and not based on their employee's response to requests at the time of inspection. 	
MIPs do not have inventory limitations.	<ul style="list-style-type: none"> • This is similar to the previous suggested change. • There is no reason for this limit if the business is meeting fire codes and other regulations. 	The Panel approved this change and staff will write code language to be reviewed at the next meeting.
Only one key holder needs to be on location at a virtually separated location and two for a co-located space.	<ul style="list-style-type: none"> • This has been an enforcement issue. • It would be fine if the two key holders switched back and forth between sides. • The interest in this is to make sure that there is always a manager on site. 	City staff will talk about this issue and share their discussion with Travis Howard should it deviate from the outlined plan.
"Minimum cost" must be defined in the Code.	<ul style="list-style-type: none"> • This was supposed to have been included in the City Manager rules. • This is particularly important from the public health perspective. • The State theory is that it must be sold for the true cost of the item. 	Staff will write code language to be reviewed at the next meeting.
Water-based extraction processing should be allowed at	<ul style="list-style-type: none"> • The City has been concerned about this in the past due to cleanliness. • This processing would require a hygienist plan. • This could be acceptable as long as it meets the State's regulations. 	City staff will write language that ties cleanliness to the State's standards and present at the next

cultivation facilities.	<ul style="list-style-type: none"> • Excise tax collection is an issue, as it currently is applied when a product leaves the site to be processed. • The existing provision was put in place in response to patient concerns regarding unsafe and unsanitary extraction processes. • The State has addressed this issue through cloning regulatory language. • The excise tax should be collected on flower that went into the water hash and would be remitted based on the initial weight of the raw material. • There needs to be a defined taxable event. • The taxed event would just be a few days later if there were to be water extractions done at cultivation facilities. • Cleanliness standards should likely default to the State’s standards, which require a pre- and post-processing industrial hygienist report. • There needs to be a clear definition of where this processing can occur to uphold cleanliness standards. • What is being processed turns into a smokeable product, not an edible product. • All products have to be tested for certain contaminants before they are sold. • Requiring a separate room rather than a separate area would be better to avoid pests and infestations. • It could just be separate from cultivation areas, but not in a dedicated room. • This would apply to both medical and recreational cultivation facilities. 	meeting. This will require a separate room from cultivation, but not a dedicated room. From the excise tax perspective, businesses will use METRC reporting to report and pay their excise taxes, just like other products. They should keep backup data in the case of an audit.
Requirements about purchased carbon offsets must be clean and not duplicative for 2016.	<ul style="list-style-type: none"> • This issue came out of confusion of what marijuana businesses can use to offset carbon emissions. • Sustainability staff is working with marijuana businesses to correct their information in the Energy Star Portfolio Manager. • There seems to be a chance of double billing businesses in 2016 due to the timing of changes in regulations which is not acceptable to the City. • There are internal inconsistencies in the code that have led to the confusion. • Title 16 will have to change to clarify this issue. 	The Panel approved this change and staff will write code language to be reviewed at the next meeting. Elizabeth will address the administrative issues to correct or clarify any existing confusion.
Language regarding minor and major modifications needs to be clarified.	<ul style="list-style-type: none"> • It seems that all the required inspections are duplicative. • A major modification would be if there is a structural change to building, a change in solvents, or a change in anything flammable. 	Mishawn Cook will organize a meeting with Kate Thomson, Alana Malone, Will Lukela, Andrea Mengehel, and City

	<ul style="list-style-type: none"> • The Code is written to be keep all businesses in compliance, not just the good businesses. • The provision was added because businesses were blaming the city for letting them spend money building if they were not able to get a marijuana license. • All inspectors have their own specialties and can only speak to their ow section of the Code. Team inspections are used to ensure that there is no oversight that may later impact the business. • People who are not going to follow the Code are not going to follow the Code no matter what. • The City would not know someone was not in compliance until license renewal inspections if they do not inspect minor and major modifications. • This process is similar to liquor licensing. • This is really an issue of asking permission and mandatory disclosures. 	staff to discuss this issue and come back with a proposal at the next meeting.
The language regarding advertising, needs to be clarified.	<ul style="list-style-type: none"> • It would make sense to clearly outline advertising restrictions in the prohibited acts. • The current language that was adopted in December does not reflect the intent of MAP's previous conversations. • All advertising is prohibited; only the exceptions are allowed.; this is a policy choice because of the difficulty of identifying all of the advertising that would be prohibited. • The language is unclear and makes adhering to the rules challenging for marijuana businesses. • The use of coupons and standalone coupons is confusing the new language. 	Heath Harmon will organize a meeting with Kate Thomson, Andy Tucker, Leisha Conners-Bauer, Andrea Mengehel, Bill Rigler, and staff to discuss this issue and bring back a proposal to the next meeting.
Restricted areas should have no size limitations.	<ul style="list-style-type: none"> • Currently, restricted areas must be less than 1,000 square feet. • This rule was initially made to uphold the intent of the waiting area. • From the enforcement perspective, the number of rooms is more important than the size. • This is related to Title Nine, but it is unclear if the change would have to made through a change to Title Nine or not. • More discussion and research is needed on this topic to identify the proper channel to address this issue. 	Kathy Haddock will further research this issue and meet with Kate Thomson and Andrea Mengehel to discuss a proposal for the next meeting.
Marijuana businesses should allow to give away promotional materials.	<ul style="list-style-type: none"> • Promotional materials would only be given away on the business premise or at an adult-only, approved event. • Controlling the use of promotional materials will decrease the proliferation, particularly for minors, which is the main concern. 	Heath Harmon will organize a meeting with Kate Thomson, Andy Tucker, Leisha Conners-Bauer, Andrea Mengehel, Bill Rigler,

		and staff to discuss this issue and bring back a proposal to the next meeting.
Medical and recreational marijuana codes should be merged into one.	<ul style="list-style-type: none"> • This is something that is supported by both businesses and staff. • Staff's intent is to work on it as time allows. • It would require a significant amount of time for staff to complete this task so if MAP wants it done sooner, City Council will have to provide direction on this in order to get it on the staff work plan for 2018. • This could be included in the letter that MAP writes to City Council. 	MAP members will decide at a later date to include this in the letter to City Council or not.

Letter to City Council

In order to make changes that are associated with Title 9 and larger policy questions, City Council will need to prioritize these issues for staff's work plan in the future. Members of MAP indicated that they would all be willing to sign a letter than asks Council to prioritize these issues for 2018 at the annual retreat. In order to be responsive to their previous comments, Heath Harmon will summarize their feedback and send it to Travis Howard, who will write the first draft of this letter with a focus on prioritizing Title 9 changes in 2018 and merging the medical and recreational codes in the future. Heather Bergman will circulate this letter to all MAP members, and it should be completed by the marijuana study session.

Next Steps

MAP members agreed to the following next steps:

- The second MAP meeting will be moved in order to accomplish all the off-line tasks.
- Heather Bergman will send out a Doodle to schedule the next meeting.

Public Comment

Members of the public were invited to speak for two minutes. Below are the highlights of their comments.

Shannon Fender

- Shannon Fender is the Director of Public Affairs for Native Roots, which has two locations in Boulder.
- Native Roots is concerned about the odor violation language, as it seems to be arbitrary. The City of Denver has language that affectively addresses the issue. Often times businesses are all lumped together and they do not know who is filing the complaint.
- Marijuana businesses are treated differently than other businesses by not being allowed to promote themselves, push their logo, and use a green cross. The current advertising restrictions promote a race to the bottom and do not give businesses the freedom to promote themselves in a more sophisticated manner.
- There needs to be more clarify in the language regarding marijuana products sold at less than cost, like penny joints. It is unclear if this is allowed in Boulder. It is allowed throughout the State.
- There needs to be a clear definition for on-site concentration production so that businesses can do more than move a product in the store.

- It is burdensome and operationally challenging that Boulder requires their own fingerprints, as this is something that MED already requires.
- There should be no requirement for manifests to Boulder, as this is something that the State already requires.

Gregg Weiss

- House Bill 17-1367 allows for marijuana research and development cultivation licenses. The City and MAP have not yet addressed this issue, and they should.

Shawn Coleman

- Terrapin Care Station (TCS) submitted the change about square footage limitations for restricted areas.
- This change was suggested due to the medical marijuana environment, since the waiting room is for everyone. As marijuana sales have evolved with the introduction of recreational marijuana, the separation changes from keeping people away from the product to keeping people away from the entire premises.
- In Denver, there is no separation unless the person is under 21 years of age.
- This limitation should be removed so that businesses can change to be virtually separated and not be outside of 1,000-foot limit.
- This change would simplify the internal dimensions, help with store layout, remove employee fatigue, and decrease loitering.
- This would be an administrative change, not a change to Title 9.

City Renewal fees for Fee Tiers subcommittee (for the purpose of deleting the \$1 per RMB plant over first 1,000 plants):

MIP- \$3,560

Testing- \$3,560

MMB Stores-type 1- \$3,560

MMB stores- type 2- \$4,050

MMB stores- type 3 +- \$4,550

MMB grows- type 1 (1 to 1,800 plants)- \$3,560

MMB grows- type 2 (1,801 to 3,600 plants)- \$4,050

MMB grows- type 3 (3,601 to 6,000 plants)- \$4,550

MMB grows- type 4 (6,001 to 10,200 or more)- \$5,050

RMB Stores- \$3,560

RMB grows- tier 1 (1 to 1,800 plants)- \$3,560

RMB grows- tier 2 (1,801 to 3,600 plants)- \$4,050

RMB grows- tier 3 (3,601 to 6,000 plants)- \$4,550

RMB grows- tier 4 (6,001 to 10,200 or more)- \$5,050

Summary:

COB currently spends \$504,336 total. License fees collected are currently \$501,577 (including \$295,800 in renewal fees for 86 licenses and also now collect \$15,375 in RMB per plant fees). We are then \$2,759 short for 2017.

If we abolish the RMB \$1 per plant fee, then we would be \$18,134 short ($\$2,759 + \$15,375$). As such, we have increased the above fees \$80 each for tier1, type 1, RMB stores, MIPs, and Testing (those are \$3480 now) and have created separate tiers for larger volume stores and grows then increasing the fees additionally in roughly \$500 increments.

We estimate that 11 licensees would be impacted by the larger per tier increases. With the increase in renewal fees, we estimate that we will just be \$384.00 short in 2018. MAP likely will want to again review license fees in 2018 to make sure that COB is still fully defraying MJ licensing and enforcement costs.

DRAFT

ORDINANCE _____

AN ORDINANCE AMENDING SECTION 5-10-6 "MARIJUANA ODOR EMISSIONS:" TITLE ~~62~~ "HEALTH, SAFETY, AND SANITATION REGARDING CHAPTER 6-14 "MEDICAL MARIJUANA" AND CHAPTER 6-16, "RECREATIONAL MARIJUANA," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 5-10-6 "Marijuana Odor Emissions" shall be amended as follows:

(c) A marijuana odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if the city manager receives:

(1) three or more complaints concerning marijuana odor emanating from the same source from individuals representing separate households, rooming units, or places of business within the city; or

(2) one complaint, and the marijuana odor is detectable outside the premises by the city manager.

Section 2. The following definitions in Section 6-14-2, B.R.C. 1981, ~~are~~ amended to read as follows:

6-14-2. – Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

...

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. *Financier* shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment to marijuana business for which the rental amount does not include any percentage of the business or its profits, or any person that has been qualified as a

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1 Permitted Economic Interest holder by the Marijuana Enforcement Division of the Colorado
2 Department of Revenue.

3 ...
4 Minimal cost means

5 Section 3. Section 6-14-5, B.R.C. 1981, is amended to read:

6 **6-14-5. - Application.**

7 (a) Application Requirements. An application for a medical marijuana business license shall be
8 made to the city on forms provided by the city manager for that purpose. The applicant shall
9 use the application to demonstrate its compliance with this chapter and any other applicable
10 law, rule, or regulation. In addition to the information required by Chapter 4-1, "General
11 Licensing Provisions," B.R.C. 1981, the application shall include the following information:

12 ...
13 (15) Modifications to Approved Medical Marijuana Business License. Prior to making a
14 modification of a marijuana business that would require a building permit or change items
15 required by subsections (6), (7) or (12) of this subsection (a), the licensees shall submit
16 to the city and have approved, when necessary, a completed application for modification
17 of premises in the form provided by the city.

18 ...
19 Section 4. Section 6-14-8, B.R.C. 1981, is amended to read:

20 **6-14-8. - Requirements Related to Operation of Medical Marijuana Businesses.**

21 ...
22 (k) Reporting Requirements. A medical marijuana business shall report to the medical marijuana
23 licensing authority each of the following within the time specified. If no time is specified, the
24 report shall be provided within seventy-two hours of the event.

- 25 (1) Transfer or change of financial interest, keyholder, financier, and primary caregiver in
the license to the city at least thirty days before the transfer or change.
- (2) Sales and taxable transactions and file sales and use tax reports to the city monthly.
- (3) A violation of any law by any licensee or applicant of a medical marijuana business.
- (4) A notice of potential violation of any law to any licensee.
- (5) Upon request, any report that is reasonably necessary for compliance with city law. Any
report that the medical marijuana business is required to provide to the state.
- (6) Reports of all criminal activities or attempts of violation of any law at the medical
marijuana business or related thereto shall be reported to the Boulder Police Department
within twelve hours of occurrence.

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(p) Advertisement. A medical marijuana business may not advertise in any manner except as provided in subparagraph (p)(2).

(1) Prohibitions. The exceptions in paragraph (2) below shall not apply to advertising that is:

(A) that is inconsistent with the medicinal use of medical marijuana, or, A medical marijuana business may not advertise in a manner that is misleading, deceptive, false, or designed to appeal to minors;

Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this code. The following conditions shall apply:

(1) Any person licensed as a medical marijuana center shall include in any advertisement for medical marijuana or any medical marijuana infused product the following language: "For registered Colorado medical marijuana patients only." Provided, however, this language shall not be required to be displayed upon any sign identifying a medical marijuana center, as permitted by Subparagraph (2)(A) of this section.

(2) Except as otherwise provided in this paragraph, it shall be unlawful for any person licensed under this chapter or any other person to advertise any medical marijuana or medical marijuana infused product anywhere in the city where the advertisement is

(B) in plain view of or in a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property;

(C) on a product marked with the name or logo of a marijuana business, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors;

(D) distributed without charge within a marijuana business or any place open to the public;

(E) contrary to any provisions of CRS 12-43.3 et seq. or 12-43.4, et seq. or any regulations adopted thereto; or.

(F) promotes medical marijuana for recreational or any use other than for medicinal purposes.

(2) Exceptions: The prohibition set forth in this subparagraph (p) shall not apply to:

(A) Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes only the name and address and days and hours of operation of the center;

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1 (B) Any advertisement contained within a newspaper, magazine, or other periodical of
2 general circulation within the city or on the internet, which may include coupons;

3 (C) ~~Any products marked with the name or logo of a marijuana business, including
4 wearable or non-consumable merchandise or accessories, packaging in which
5 marijuana is sold, or on medical marijuana accessories sold;~~

Commented [HK1]: Subject to modification if this opens the door wider than agreements.

6 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
7 medical marijuana business;

8 (E) ~~A booth at a job fair or educational seminar where the only items distributed are
9 company or educational materials, and no other items are distributed, shown or sold;~~

10 ~~(F) A booth at an adult event where the only items distributed are company or
11 educational materials, and no other items are distributed, shown or sold.~~

12 (F) Business cards within the business or handed directly to an individual over the age
13 of 21;

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14 (G) Showing a government-issued verification of age or military status, or registration
15 for a charitable event, or similar item the showing of which, without providing a
16 separate printing to the business, entitles the holder to a discount for a particular
17 product or service; or

18 (H) Company materials and educational materials distributed inside the marijuana
19 business.

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20 ~~(3) It is an affirmative defense if a medical marijuana business employee provided
21 another individual, upon request, a business card for the purpose of providing that
22 person's name and business affiliation, including, without restriction, title, mailing
23 address, email address, and telephone number.~~

24 ~~(4) No medical marijuana business shall distribute or allow the distribution of any marijuana
25 or products marked with its name or logo without charge within a marijuana business or
any place open to the public for the purpose of promotion or advertising except as
permitted in subsections (2)(E) and (F) of this section (p). without charge within a
marijuana business or any place open to the public. Promotional items may be distributed
only within the licensed premises or at an adult event.~~

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~~(5) No medical 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 except as permitted in
subsections (2)(E) and (F) of this section (p).~~

~~(6) No medical marijuana business shall sell, distribute, or provide, or allow the sale,
distribution, or provision of, products marked with its name or logo, in child sizes,
designed for the use of minors, or which is misleading, deceptive, false, or appealing to
minors.~~

Section 4. Section 6-14-10 B.R.C. 1981, is amended to read:

6-14-10. - Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

1 All components of the security plan submitted with the application, as it may be amended,
2 shall be in good working order, monitored, and secured twenty-four hours per day. A separate
3 security system is required for each business. The security plan must include, at a minimum,
4 the following security measures:

5 ...
6 (c) Alarm System. The medical marijuana business shall install and use an alarm system that is
7 monitored by a company that is staffed twenty-four hours a day, seven days a week. The
8 security plan submitted to the city shall identify the company monitoring the alarm, including
9 contact information, and updated within seventy-two hours of any change of monitoring
10 company. If the alarm system includes a panic alarm, an operable The medical marijuana
11 business shall also have a dedicated phone for law enforcement to respond to the alarm that
12 shall remain on the premises at all times.

13 Section 6. The following definitions Section 6-16-2 B.R.C. 1981, is amended to read as
14 follows:

15 **6-16-2. – Definitions.**

16 The following words and phrases used in this chapter have the following meanings unless
17 the context clearly indicates otherwise:

18 ...
19 *Cultivation facility* means a licensed recreational marijuana business that produces and
20 harvests marijuana plants for distribution by a licensed marijuana business. Except as included
21 in this definition, a cultivation facility may not operate any on its premises.

22 ...
23 *Financier* means any person who lends money or otherwise provides assets to any person
24 applying for a license or who has been issued a license under this chapter. If a financier is an
25 entity rather than an individual, the same disclosure shall be required for each entity with an
ownership interest until a managing member that is a natural person is identified. *Financier*
shall not include a bank, savings and loan association, credit union, or industrial bank
supervised and regulated by an agency of the state or federal government, any person in the
business of leasing equipment to marijuana business for which the rental amount does not
include any percentage of the business or its profits, or any person that has been qualified as a
Permitted Economic Interest holder by the Marijuana Enforcement Division of the Colorado
Department of Revenue.

26 ...
27 Minimal cost means

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1 (1) In the event the licensee intends to employ a keyholder that was not identified on the
2 license or renewal application, the licensee shall report the name of such keyholder to the city,
3 and such keyholder shall submit to the city, at least thirty days prior to commencing serving
4 as the keyholder, an application containing all of the information required by this chapter and
5 on the license application. Such licensee shall report to the city any change in keyholders at
6 least thirty days prior to employing an additional keyholder, and no more than five days after
7 a keyholder is released from such position.

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8 (2) In the event the licensee submits a completed application for the new keyholder with a
9 copy of a valid Occupation Key Badge issued by the state Marijuana Enforcement Division,
10 the applicant may work as a keyholder for the licensee upon submission of the application up
11 until final city determination is made on such application.

12 (3) ~~For a co-located marijuana business that is physically separated, there shall be two~~
13 ~~keyholders, one designated for each license, within the co-located business. For a co-located~~
14 ~~marijuana business that is virtually separated, only one keyholder is required within the co-~~
15 ~~located business.~~

16 (h) Ventilation Required. A recreational marijuana business shall be ventilated so that the odor
17 of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the
18 recreational marijuana business or at any adjoining use or property. Upon the city receiving
19 one complaint regarding a recreational marijuana business emitting noxious gases or odors it
20 shall be issued a written warning. Upon the city receiving two or more complaints regarding
21 a recreational marijuana business emitting noxious gases or odors it shall be issued a ticket.

22 (i) Renewable Energy Usage Required. A marijuana business shall directly offset one hundred
23 percent of its electricity consumption through the purchase of renewable energy or carbon
24 offsets, a verified subscription in a Community Solar Garden, or renewable energy generated
25 onsite, or an equivalent that is subject to approval by the city. For a recreational marijuana
center that has converted pursuant to Subsection 6-16-3(f) or co-located pursuant to
Subsection 6-16-3(g), or a marijuana-infused product manufacturer licensed by the city on
October 22, 2013, this requirement shall apply at the time of renewal of the marijuana business
license following October 22, 2013.

(j) Limitations on Inventory. The recreational marijuana business shall not maintain any more
marijuana within the premises than the amount stated on the business' license application to
the State of Colorado and city. No plants shall be located in a recreational marijuana center
or a marijuana-infused product manufacturer or a marijuana testing facility. ~~In addition, the~~
~~establishment shall not maintain any more marijuana within the restricted area than:~~

~~(1) Cultivation facility: One thousand plants, provided, however, a cultivation facility may have~~
~~more than one thousand plants, not including immature plants, if the licensee provides an~~
~~additional enforcement fee in an amount of \$1 per plant over one thousand plants. Such fee~~
~~shall be payable annually at the time of licensing and renewal; or~~

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~~(2) MIP: Six hundred pounds of marijuana that has not been incorporated into a product and one~~
~~hundred fifty pounds of marijuana infused product; or~~

Commented [HK2]: Move to fee part

1 ~~(3) Testing facility: One hundred pounds of raw marijuana and one hundred pounds of marijuana-~~
2 ~~infused product.~~

3 (k) Reporting Requirements. A recreational marijuana business shall report to the recreational
4 marijuana licensing authority each of the following within the time specified. If no time is
5 specified, the report shall be provided within seventy-two hours of the event.

6 (1) Transfer or change of financial interest, keyholder, or financier in the license to the city
7 at least thirty days before the transfer or change;

8 (2) Sales and taxable transactions and file sales and use tax reports to the city monthly;

9 (3) A violation of any law by any licensee or applicant of a recreational marijuana business;

10 (4) A notice of potential violation of any law related to the licensee;

11 (5) Upon request, any report that is reasonably necessary for compliance with city law. Any
12 report that the recreational marijuana business is required to provide to the State of
13 Colorado; or

14 (6) Reports of all criminal activities or attempts of violation of any law at the recreational
15 marijuana business or related thereto shall be reported to the Boulder Police Department
16 within twelve hours of occurrence.

17 (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed
18 recreational marijuana business, all sales of recreational marijuana shall be made in person in the restricted
19 area of a recreational marijuana center. All marijuana sales shall be in person, directly to the
20 purchaser. No marijuana sales shall be made via telephone, internet, or other means of remote
21 purchase. Deliveries of marijuana shall occur only in person to the purchaser at the time of
22 purchase in the restricted area of a recreational marijuana center.

23 (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to
24 transport recreational marijuana, except as specifically allowed by applicable law, unless the
25 recreational marijuana being transported meets the following requirements:

(1) All marijuana-infused products are ~~hand~~-packaged, sealed, and labeled as provided in this
chapter and the products stored in closed containers that are labeled as provided in this
section;

(2) All recreational marijuana in a usable form is packaged and stored in closed containers
that are labeled as provided in this section;

(3) Each container used to transport recreational marijuana is labeled with the amount of
recreational marijuana or marijuana-infused products, or the number and size of the
plants, in the container. The label shall include the name and address of the recreational
marijuana business that the recreational marijuana is being transported from, and the
name and address of the recreational marijuana business that the recreational marijuana
is being transported to. The label shall be shown to any law enforcement officer who
requests to see the label;

(4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be
transported with proper bill of sale completed before transport only to another
recreational marijuana business;

1 (5) The recreational marijuana must be accompanied by the manifest in accordance with state requirements for transportation of recreational marijuana;

2 (6) The recreational marijuana must be accompanied by the email receipt confirmation from
3 the Boulder Police Department in accordance with the rules therefor established by the police department;

4 (7) When determining and reporting the route for delivery, licensees should select the most direct route that provides efficiency and safety; and

5 (8) Transport may be initiated from a marijuana business occur only during the hours allowed
6 for operation of the center.

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7 (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Boulder Police Department and the Boulder Fire Department.

8 (o) Possession of Mature Flowering Plants. No more than one-half of the recreational marijuana plants within a recreational marijuana business may be mature, flowering plants.

9 (p) Advertisement. A recreational marijuana business may not advertise in a manner except as specifically provided in subparagraph (p)(2).

10 (1) Prohibitions. The exceptions in subparagraph (2) below shall not apply to advertising that is:

11 (A) that is misleading, deceptive, false, or designed to appeal to minors. The following
12 conditions shall apply:

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13 ~~(1) Except as otherwise provided in this paragraph, it shall be unlawful for any person licensed under this chapter or any other person to advertise any recreational marijuana or recreational marijuana infused product anywhere in the city where the advertisement is~~

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14 (B) in plain view of, -or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any handheld or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property;

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15 (C) on a product marked with the name or logo of a marijuana business, in child sizes, designed for the use of minors, or which is misleading, deceptive, false, or appealing to minors;

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16 (D) distributed without charge within a marijuana business or any place open to the public; or

17 (E) contrary to any provisions of CRS 12-43.3 et seq. or 12-43.4, et seq. or any regulations adopted thereto.

18 (2) Exceptions: The prohibition set forth in this subsection (p) paragraph shall not apply to:

1 (A) Any sign located on the same zone lot as a recreational marijuana center which exists
2 solely for the purpose of identifying the location of the recreational marijuana center
3 and which otherwise complies with this code and any other applicable city laws and
4 regulations, which sign includes only the name and address and days and hours of
5 operation of the center;

6 (B) Any advertisement contained within a newspaper, magazine, or other periodical of
7 general circulation within the city or on the internet, which may include coupons;

8 (C) ~~Any products marked with the name or logo of marijuana business, including
9 wearable or non-consumable merchandise or accessories, packaging in which
10 marijuana is sold, or on recreational marijuana accessories sold;~~

Commented [HK3]: Subject to modification if this opens the door wider than agreements.

11 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
12 recreational marijuana business;

13 (E) ~~A booth at a job fair or educational seminar where the only items distributed are
14 company or educational materials, and no other items are distributed shown or sold;~~
15 ~~or~~

16 ~~(F) A booth at an adult event where the only items distributed are company or
17 educational materials no other items are distributed, shown or sold;~~

18 ~~(F) Business cards within the business or handed directly to an individual over the age
19 of 21;~~

20 ~~(G) Showing a government-issued verification of age or military status, or registration
21 for a charitable event, or similar item the showing of which, without providing a
22 separate printing to the business, entitles the holder to a discount for a particular
23 product or service; or~~

24 ~~(H) Company materials and educational materials distributed inside the marijuana
25 business.~~

~~(2) It is an affirmative defense if a recreational marijuana business employee provided
another individual, upon request, a business card for the purpose of providing that
person's name and business affiliation, including, without restriction, title, mailing
address, email address, and telephone number;~~

~~(3) No marijuana business shall distribute or allow the distribution of any marijuana or
products marked with its name or logo without charge within a marijuana business or any
place open to the public for the purpose of promotion or advertising except as permitted
in subsection (1)(E) and (F) of this section (p);~~

~~(4) 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 except as permitted in
subsection (1)(B) of this section (p); and~~

~~(5) No recreational marijuana business shall sell, distribute, or provide, or allow the sale,
distribution, or provision of, products marked with its name or logo, in child sizes;~~

1 ~~designed for the use of minors, or which is misleading, deceptive, false, or appealing to~~
2 ~~minors.~~

...

3 (w) Organization of Cultivation Facilities and Marijuana-Infused Product Manufacturers. All
4 cultivation facilities and -marijuana-infused product manufacturers shall be organized in
5 orderly rows with aisles at least three feet wide, and no more than eight feet between an aisle
6 and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager
7 determines that the business has provided a dimensioned floor plan that provides equivalent
8 access and separation between plants and inventory and to exits.

9 Section 10. Section 6-16-13, B.R.C. 1981, is amended to read:

10 **6-16-10. - Requirements Related to Monitoring and Security of Restricted Areas and**
11 **Inventory.**

12 All components of the security plan submitted with the application, as it may be amended,
13 shall be in good working order, monitored, and secured twenty-four hours per day. Except for a
14 co-located marijuana business that is virtually separated, a separate security system is required
15 for each business. The security plan must include, at a minimum, the following security
16 measures:

...

17 (c) Alarm System. The recreational marijuana business shall install and use an alarm system that
18 is monitored by a company that is staffed twenty-four hours a day, seven days a week. The
19 security plan submitted to the city shall identify the company monitoring the alarm, including
20 contact information, and be updated within seventy-two hours of any change of monitoring
21 company. If the alarm system includes a panic alarm, an operable dedicated phone shall
22 remain on the premises at all times. ~~The recreational marijuana business shall also have a dedicated~~
23 ~~phone for law enforcement to respond to the alarm that shall remain on the premises at all~~
24 ~~times.~~

25 Section 11. Section 6-16-13, B.R.C. 1981, is amended to add a new subparagraph (1) to
read as follows and renumber the remaining subparagraphs:

6-16-13. - Prohibited Acts.

(a) Prohibited Acts. It shall be unlawful for any person to:

(1) Unlawful to sell or distribute marijuana to any persons under the age of twenty-one (21).

Section 12. This ordinance is necessary to protect the public health, safety, and welfare
of the residents of the city, and covers matters of local concern.

1 Section 13. The city council deems it appropriate that this ordinance be published by title
2 only and orders that copies of this ordinance be made available in the office of the city clerk for
3 public inspection and acquisition.

4
5 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
6 TITLE ONLY this ____ day of _____, 201__.

7
8 _____
9 Suzanne Jones
10 Mayor

11 Attest:

12 _____
13 Lynnette Beck
14 City Clerk

15 READ ON SECOND READING, PASSED, ADOPTED this ____ day of _____,
16 201__.

17
18 _____
19 Suzanne Jones
20 Mayor

21 Attest:

22 _____
23 Lynnette Beck
24 City Clerk

Dear Council,

Thank you for your continued support in responsibly regulating the marijuana industry. In this regard, MAP would like to take this opportunity to share with you a couple of our thoughts and experiences from the past year.

As many of you are aware, MAP members gave significant time to this process, working hard to reach unanimous consensus across many difficult topics. In last year's process we presented many suggestions for protecting the interests and lives of a multitude of stakeholders. Many of these items were addressed by Council, and again, we thank you for providing this opportunity and for being responsive and supportive of our recommendations. Some of our recommendations required additional planning and work from Council as they involved Title 9 changes and modifications and could not be quickly addressed. We understood that Title 9 changes required Council to take up these matters at the annual retreat and that the 2017 docket was already full. At the most recent MAP meeting, after having time for the impacts of the other changes to take place, and with full comprehensive reflection on our recommendations, MAP members again were unanimous in their desire to see Council tackle the Title 9 recommendations.

MAP members want to express their understanding for your very full work loads, the simply overwhelming amount of important community items your Council faces, and the limited time in which you have to work on them and choose priorities. In addition, we want to express to you how hard we worked, together as citizens, educators, protectors of youth and community, city staff, and industry to reach cohesive and comprehensive recommendations. Many of these consensus agreements were made in a totality environment, with stakeholders on all sides compromising and working together. We humbly ask that you sincerely consider placing these Title 9 changes into your 2018 retreat schedule, as we feel they both reflect a responsible regulatory environment and the true holistic solution set MAP presented at the end of its last session.

In this same light, MAP, along with city staff, would also like to ask Council to consider placing an additional item of importance into the 2018 schedule. We strongly feel that a merging of the medical and recreational codes regulating marijuana would prove invaluable to the City. From enforcement to education, code amendment to ease of use, and from citizen to business owner, a single source of rules and regulations would positively impact the effectiveness of the code while reducing administrative time and consumption of city resources in the future.

Humbly and respectfully,

MAP

December 18, 2107

Dear City Council,

Thank you for your continued support in responsibly regulating the marijuana industry. In this regard, the Marijuana Advisory Panel (MAP) would like to take this opportunity to share with you a couple of our thoughts and experiences from the past year.

Prioritization of Marijuana-Related Tasks in the 2018 Staff Work Plan

As many of you are aware, MAP members gave significant time to fully tackle City Council's charge of improving the City's code in a rapidly changing industry with evolving regulatory needs. At the end of the Panel's 2016 process we presented 44 consensus-based recommendations for protecting the interests and lives of a multitude of stakeholders. Many of these items were addressed by Council, and we thank you for being responsive and supportive of our recommendations. However, more work remains. Some of our recommendations require changes to Title 9 and could not be addressed within MAP's 2016 scope of work. We understand that Title 9 changes mean Council must find room in the annual work plan to accomplish these tasks, which takes place at the annual retreat. As a Panel, we unanimously recommend that Council prioritize these Title 9 recommendations in 2018.

Community Safety

Boulder has a serious youth drug and alcohol problem. As the marijuana industry continues to evolve, it is imperative that industry, the community, and the City have a plan for ensuring public health. There needs to be a productive space for the necessary stakeholders to come together to discuss vital and timely issues such as parent education and prevention messaging. MAP's scope in 2016 and 2017 was focused solely on updating the existing City code. However, it is challenging to truly address the intersection of industry and public health with such a narrow focus. We agree that it is time for MAP to discuss this issue holistically in 2018 – with industry, public health officials, and community members. With this in mind, we recommend to City Council that MAP be encouraged to discuss this in 2018 with the addition of more community voices and perspectives.

Remaining Items to Discuss in 2018 and Beyond

While evaluating and discussing the myriad of issues pertaining to the city of Boulder's marijuana code we found other topics worthy of discussion, particularly education and underage diversion. Boulder County Public Health, Boulder Valley School, District, and University of Colorado at Boulder have thorough but separate strategies in place to mitigate the impacts of legal marijuana use on minors, but we believe that the community-at-large would benefit from a City-led effort. In addition to education and underage diversion, we identified the following issues as ripe for community discussion, but outside the current scope or capacity of MAP and supporting staff:

- Major and minor modifications
- Incidental sponsorship (charity versus adult events)
- Promotional items
- Educational materials prepared by licensees
- Logos on on-premises signs
- Penny joints
- Social clubs
- Community message
- Community outreach
- Carbon offsets

MAP members want to express their understanding for your very full workloads, the simply overwhelming amount of important community items your face as a Council, and the limited time in which you have to work on them and choose priorities. In addition, we want to express to you how hard we worked, together as citizens, educators, protectors of youth and community, city staff, and industry to reach cohesive and comprehensive recommendations. These diverse perspectives shaped the consensus-based recommendations that we submit to you today.

Humbly and respectfully,

Marijuana Advisory Panel

- Leisha Connors-Bauer, University of Colorado at Boulder
- Heath Harmon, Boulder County Public Health Administration
- Travis Howard, Green Dream Cannabis
- Keenan Jones, Hoban Law Group
- Will Lukela, Marijuana Enforcement Division, Colorado Department of Revenue
- Alana Malone, Green Dot Labs
- Andrea Meneghel, Boulder Chamber
- Bill Rigler, Community Representative
- Teri Robnett, Cannabis Patients Alliance
- Loree Schwartz, Organic Wellness Dispensary
- Jane Theodore, Community Representative
- Kate Thomson, The Farm
- Andy Tucker, Boulder Valley School District *(Stepping down in 2018 due to job change.)*



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 20, 2018

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8240 amending Sections 5-10-6, "Marijuana Odor Emissions," Title 6 "Health, Safety, and Sanitation" regarding Chapter 6-14, "Medical Marijuana," and Chapter 6-16, "Recreational Marijuana," B.R.C. 1981, to adopt revisions recommended by the Marijuana Advisory Panel, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas Carr, City Attorney
Kendra Tupper, Chief Sustainability Officer
Kathleen E. Haddock, Senior Counsel
Sandra M. Llanes, Deputy City Attorney
Mishawn Cook, Licensing Manager
Rebecca Bostrack, Boulder Police Officer, Marijuana Enforcement Division

EXECUTIVE SUMMARY

The purpose of this agenda item is the second reading of an ordinance that would amend the marijuana code and adopt revisions recommended by the Marijuana Advisory Panel ("MAP"). First reading passed on the consent agenda on March 5, 2018.

In December 2016, council adopted an ordinance that reflected MAP's recommended code changes to the city's marijuana regulations. The changes were viewed as a major

overhaul to the medical and recreational marijuana regulations, and MAP and staff were praised for their hard work and collaborative approach.

As directed by the city manager and council, MAP reconvened twice in 2017 to, (1) review changes at the state level and the need for additional modifications to the city's ordinances and regulations; and (2) to assess whether the changes implemented at the end of 2016 were working or whether they needed to be refined. MAP and staff identified approximately 20 areas that would benefit from code changes. Those recommendations are reflected in the proposed ordinance. **Attachment A.**

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt on second reading Ordinance 8240 amending Sections 5-10-6 "Marijuana Odor Emissions," Title 6 "Health, Safety, and Sanitation" regarding Chapter 6-14, "Medical Marijuana," and Chapter 6-16, "Recreational Marijuana," B.R.C. 1981, to adopt revisions recommended by the Marijuana Advisory Panel, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Support for the marijuana industry by creating clarity and efficiencies in the regulations, more economic opportunities, and a more level playing field with marijuana businesses outside of the City of Boulder.
- Environmental – The proposed changes to the renewable energy offset and reporting requirements clarify the language to eliminate points of confusion.
- Social – The proposed changes to the regulation support preserving and promoting Boulder's unique community values.

OTHER IMPACTS

- Fiscal – Budgetary impacts to the city organization would not be affected.
- Staff time – In general, staff will be able to implement the recommendations in existing work plans.

BACKGROUND

Historical Background

Boulder first adopted regulations on marijuana businesses in 2010 for the medical marijuana businesses that had been established by the medical marijuana amendment to the Colorado Constitution in 2000. When Colorado voters approved recreational marijuana in 2012, the city adopted code provisions for recreational marijuana that mirrored those of the medical marijuana code.

The first licensed recreational businesses opened in early 2014. Voters approved an additional sales tax and an excise tax on recreational marijuana on the November 5, 2013, ballot. A percentage of these tax revenues are directed towards marijuana educational programs through the City's Department of Human Services.

MAP's formation

To avoid a piecemeal approach to code amendments, in January 2016, at the direction of city council, a 12-member Marijuana Advisory Panel was formed to take a comprehensive review of the existing city code related to marijuana regulation, and to make recommendations to any potential changes to topics related to advertising, public health impacts, licensing, zoning, and more.

Council approved a Charter (*see Attachment B*) that provided the MAP with direction on a work plan to analyze both State of Colorado regulations and Boulder's code to understand regulatory intent and impact, to solicit public input, and to discuss possible changes to the code—all while preserving and promoting Boulder's unique community values. Members of the MAP included the perspectives of a cross-section of community representatives and leaders, such as marijuana businesses, the Boulder Chamber, Boulder County Public Health, Boulder Valley School District, the State of Colorado's Marijuana Enforcement Division, the University of Colorado, as well as patient advocates, legal experts, independent small business owners, and community members.

The MAP undertook the task to better assess the impact of Boulder's code on public health, safety, and the competitiveness of the Boulder-based marijuana industry. In the course of its work, the Panel also reviewed differences between the city and state regulations, and the interconnectedness between business operations, enforcement, and youth education.

MAP's work in 2016

The MAP held 11 public meetings in 2016. Public participation helped inform and improve the panelists' understanding of the complexities surrounding the city of Boulder's local ordinance and congruence with state regulations, impacts upon the community and local businesses within the marijuana industry. All MAP meetings are approximately three to four hours long. Meeting agendas, materials, and minutes are posted to the city's [website](#), meetings are noticed, are open to the public, and include a time for public comment.

MAP's work culminated in a study session on August 23, 2016, during which council considered over 35 recommended code changes. Some of those recommendations required changes that implicate land use, zoning, density, and size regulations, all of which are governed by Title 9 of the Boulder Revised Code. A list of these proposed changes is in **Attachment F**. Council directed staff to draft an ordinance to bring forward MAP's recommendations and directed MAP to develop the next steps for any potential Title 9 changes.

In a subsequent September 29, 2016 MAP meeting, Susan Richstone, the then Deputy Director of the Planning, Housing and Sustainability Department, explained that any actions related to planning and land use must be placed into the work plan by city council at their annual retreat. She explained that city council sets the priorities for this department in January, and anything that is to be added must have their approval. Approximately 80 percent of the department's workload is simply responding to applications, and that only leaves a 20 percent capacity to complete council-prioritized projects such as the Boulder Valley Comprehensive Plan Update, housing assessments, affordable housing, sub-area plans, and Boulder Community Hospital redevelopment. None of the recommendations coming from the MAP are small or insignificant and would greatly expand the number of marijuana businesses in the city, therefore, affecting staffing for Licensing, Code Enforcement, Police, and City Attorney. Implementation will require staff analysis, extensive stakeholder engagement, and significant policy considerations. The Planning Board would have to review the recommended changes and decide whether to recommend them to city council for implementation.

After understanding the process to make Title 9 changes, MAP agreed to proceed to public hearings for code changes on the majority of their recommendations and with Title 9 changes being addressed on a separate, delayed track. This approach was taken in an effort to prevent the Title 9 changes from delaying progress on the more actionable items recommended by MAP. MAP's recommended code changes, were adopted by council in a public hearing on December 6, 2016. The changes were viewed as a major overhaul to the Medical and Recreational Marijuana regulations, and the MAP was praised for their hard work.

MAP's work in 2017/2018

In January 2017, the city manager provided MAP with some direction regarding their role and work plan. The city manager asked MAP to meet in 2017 to (1) review changes at the state level and the need for additional modifications to the city's ordinances and regulations; and (2) to assess whether the changes implemented at the end of 2016 were working or whether they needed to be refined. *See Attachment C*. There was also a request to add a representative from the newly annexed marijuana businesses and up to three community members who have no ties to the marijuana industry.

MAP met on September 14, 2017, and October 16, 2017, with two new members and discussed potential code changes. Approximately twenty recommendations came out of those two meetings. Some of the recommended changes came from city licensing, some came from marijuana businesses, and some came as a result of state legislative changes.

All recommendations being brought forward in this ordinance were made by consensus. A detailed breakdown of those changes is provided in a chart. *See Attachment D.*

Lastly, because some of MAP's previous recommendations required Title 9 changes, and were beyond the MAP's 2016 scope of work, MAP provided council with a letter urging prioritization of those work plan items. *See Attachment E.* Those items were not added to the 2018 workplan.

ANALYSIS/KEY RECOMMENDATIONS

By consensus, MAP and staff are providing council with approximately 19 code changes that are reflected in the proposed ordinance and chart. *See Attachments A & D.*

There are several areas that either proved to be challenging or required additional, specialized time to reach consensus. They are as follows:

Advertising and Promotional Items: This is one of the most challenging areas of marijuana regulation, because the interests are so divergent. For businesses, marketing and branding are recognized ways to increase revenue. For those concerned about the effects of marijuana on youth, there is a desire to not repeat the mistakes related to smoking, where businesses used images attractive to youth to encourage smoking. The classic example being the character "Joe Camel." Having a logo on a t-shirt or a sticker than can be placed on skateboards, laptops and other items for a certain brand, can become important to youth, which according to Boulder County Public Health, statistically increases use among youth.

The MAP agreed that marijuana businesses could not give away anything for free, including promotional items. MAP agreed that businesses should not sell things below cost. It was challenging to find a definition that fit those parameters. For stickers and promotional items, that is a distinction without a difference. If council chooses to address this issue, it would be helpful to give direction for revision to the ordinance draft in the definition of "Promotional Item," located in Sections 6-14-2 & 6-16-2, of the proposed ordinance.

The proposed ordinance also clarifies what is meant by advertising in Sections 6-14-8(p) and 6-16-8(p), related to promotional items and company materials. Staff is also adding to the city's website examples of what is within the definition, and what is not, in an effort to be transparent about this complex area of the code.

Cold-Water Extraction: There is a process for distilling marijuana that includes only cold water and agitation. The businesses requested that they be permitted to do this type of production at a cultivation facility, which the state allows. Other processing requires chemicals and heat, so the requirements for marijuana-infused product manufacturers require safety for those elements, as well as a kitchen-clean environment, since the products will be ingested by humans.

Cold-water extraction does not present the same safety concerns as other processes but does still require food-level cleanliness. Therefore, the provisions in the proposed

ordinance allow for cold-water extraction at a cultivation facility, but in a separate room that meets the requirements for a marijuana-infused manufacturer. The regulations being proposed are in line with the state requirements for water-based extraction. Like co-located marijuana businesses, the additional cold-water extraction business is considered separate for purposes of taxation and licensing, but the same as the cultivation facility for density requirements, HVAC, security and fire suppression. These changes can be found in Sections 6-14-2, 6-16-2 and 6-16-5(a)(17).

Pay-per-plant/Tier Structure: The marijuana businesses asked that the city's tier structure for stores and cultivation facilities follow the state's separation and that the city's per-plant fee over 1,000 be eliminated. That is accomplished in Sections 4-20-67(j) and 6-16-8(j) of the proposed ordinance.

Square Foot Limits: Marijuana businesses wanted some of the restrictions for use of square footage inside the businesses eliminated. Those changes are reflected in Section 6-16-7(g) of the proposed ordinance.

Renewable Energy and Energy Reporting Requirements: Staff proposed minor changes to the requirements for renewable energy and associated reporting. These changes can be found in Sections 6-14-8(i), 6-14-9(g), 6-16-8(i), and 6-16-9(g). These edits clean up the current code language to eliminate common areas of confusion for licensees and clarify the requirements. Marijuana business are required to offset 100 percent of their electricity consumption through either:

- Renewable energy generated on site;
- A verified subscription in a Community Solar Garden; or
- An equivalent that is subject to approval by the city.

Currently, the only equivalent that is approved by the city is the city's Energy Impact Offset Fund (EIOF). This new EIOF Fund was approved by city council on [March 7, 2017](#). The initial objective of the fund, is to provide a local energy offset option (priced at \$0.0216 per kWh) for the city's marijuana businesses. Staff intends to expand this to broader uses.

More information is included on the city's website at: <https://bouldercolorado.gov/planning/boulder-marijuana-facility-energy-requirements>
In the future, if other equivalents are approved, this website will be updated accordingly.

Odor Complaints: Odor complaints fall into two categories: (1) odor from illegal grows in residential areas; or (2) odor from licensed marijuana businesses. The area where staff receives the most complaints about marijuana businesses, is the odor from cultivation facilities and marijuana-infused product manufacturers. The proposed ordinance addresses this issue in the first category—odor complaints from illegal grows in residential areas. The change in Section 5-10-6, should make it easier for enforcement.

With respect to odor emanating from licensed marijuana businesses, staff has held neighborhood meetings for one area of concentration of complaints and is planning another one for a different area. Police and code enforcement staff have researched the issue and provided recommendations regarding minimum requirements directly to the businesses involved, and at the quarterly manager's meeting for marijuana businesses. Staff believes that making some of these recommendations into requirements, would help with the odor issues. However, due to timing issues, this has not been discussed as part of the MAP process and are not included in the proposed ordinance.

PUBLIC FEEDBACK

Staff has set up a separate email to notify the city of issues with the marijuana code. There were no comments provided there to the proposed ordinance. However, there were e-mails from a business owner and a marijuana attorney asking for the following policy type changes, (1) to add a new category of marijuana licenses for off-site marijuana storage; (2) to provide more flexibility on allowing a business to become physically or virtually co-located; (3) allowing marijuana social clubs; and (4) allowing marijuana businesses to use logos in signs on property to identify their location. **Attachment G.**

RESPONSE TO FIRST READING QUESTIONS

1. What are the Title 9 land use changes referred to in the letter from MAP that was Attachment E to the first reading memo?

MAP's letter is referring to code changes that implicate land use, zoning, density and size regulations. They are identified as "Title 9" changes because of their impact to zoning, density, etc., but they are actually found in Title 6 because marijuana regulation is very specialized and required its own code section. The shorthand "Title 9 changes" has been used because these changes are the types of land use restrictions that derive from Title 9 and the original recommendations and amendments have gone through the Planning Board.

Specifically, there are four changes requested by MAP. They are more fully described in the chart that was Attachment F to the first reading memo. Generally, the requests are to, (1) increase the square foot size of all types of marijuana businesses; (2) increase the density of marijuana cultivation facilities and MIPs so that more of these businesses can be in close proximity to each other; (3) increase the maximum size of cultivation facilities by allowing them to combine existing maximums of five grows with 15,000 square feet into one grow of 75,000 square feet; and (4) allow existing licenses to move to a different location without applying for a new license.

Currently a marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located. For example, marijuana cultivation facilities or grows fall under the designation of "greenhouse/nursery" and are therefore permitted in zones where greenhouses are allowed. See Sections 6-14-7(b)(2) and 6-16-7(b)(2), B.R.C. 1981. Furthermore,

cultivation facilities and MIPs fall within the use category of Manufacturing $\leq 15,000$ square feet. See Sections 6-14-7(b)(3) and 6-16-7(b)(3), B.R.C. 1981.

In order to allow for bigger facilities, the use designation for marijuana businesses would need to be changed and permitted in zones for Manufacturing $> 15,000$ sf. To allow for more businesses, the current limitation of no more than three marijuana businesses within 500 feet of each other and the 1000-foot proximity to schools, universities, licensed day cares and addiction treatment facilities would have to be reduced. See Sections 6-14-7(f)(1) & (3) and 6-16-7(e)(1), B.R.C. 1981. Use standards are in Section 9-6-2 of the Code and itemized on Table 6-1: Use Table in that section. Density standards for other use types are in Chapter 9-8 of the Code. The use designation and the density limit both came from the Planning Board. The proximity to schools is to be consistent with federal law to avoid drawing federal attention to Boulder marijuana businesses.

For a more specific history, when medical marijuana stores first started appearing in 2009, the city viewed legislation of marijuana businesses as a land use issue and adopted interim code changes by Ordinance 7707 that regulated the siting of medical marijuana businesses near schools, residences, or other medical marijuana businesses and specified the zone districts where medical marijuana businesses may be located within the City of Boulder through March 31, 2010. When more permanent provisions were made in May of 2010, the marijuana provisions remained primarily a land use issue. When the state failed to adopt licensing provisions for marijuana businesses, the city added licensing provisions to the marijuana code. Because marijuana is so different from other businesses, all of the marijuana provisions were put into a new Chapter 6-14 of the Medical Marijuana code, rather than adding the licensing provisions to Title 4 and the land use provisions to Title 9. Since then the only changes to land use related marijuana provisions have been to modify the proximity to schools to be consistent with federal law.

Staff believes that the process for approval of other land use changes is an appropriate way to begin the analysis of policy issues related to changes to marijuana land use provisions even though the actual code change may be in Title 6 rather than Title 9. This process is what the city has followed since the inception of medical marijuana. In a September 29, 2016 MAP meeting, Susan Richstone, the then Deputy Director of Planning, Housing and Sustainability Department, explained to MAP the requirements for reconsideration of these land use issues. She stated that any actions related to planning and land use must be placed into the work plan by city council at their annual retreat. She explained that city council sets the priorities for this department in January, and anything that is to be added must have their approval. Approximately 80 percent of the department's workload is simply responding to applications, and that only leaves a 20 percent capacity to complete council-prioritized projects such as the Boulder Valley Comprehensive Plan Update, housing assessments, affordable housing, sub-area plans, and Boulder Community Hospital redevelopment. None of the recommendations coming from MAP are small or insignificant and would greatly expand the number of marijuana businesses in the city; therefore, affecting staffing for Licensing, Code Enforcement, Police and City Attorney. Implementation will require staff analysis, extensive

stakeholder engagement and significant policy considerations. The Planning Board would have to review the recommended changes and decide whether to recommend them to city council for implementation.

Some of the policy issues to be considered include the effect of having more and larger marijuana businesses in Boulder and how that might affect non-marijuana business locations, particularly in industrial zones and especially as related to odor mitigation. Increasing the number of marijuana business licenses would also have an impact on enforcement and/or staffing of employees that work on marijuana issues. The existing staff in six different departments is at maximum ability to be able to do enforcement of marijuana laws for the existing 97 marijuana businesses. Increasing the number of marijuana businesses results in the need for more staff, or less enforcement of the city's marijuana requirements.

2. Staff received an additional question that was addressed by Elizabeth Vasatka, Sustainability Coordinator. The response was sent by email on Monday, March 5, via Hotline and Council email and read as follows:

I was informed that at this morning's Council Agenda Committee meeting, Mayor Jones asked a question regarding how the city will use the new Energy Impact Offset Fund's revenue. The Fund, which is a compliance option for the electricity offset requirement and part of the marijuana ordinance, is on tonight's council consent agenda as Item L.

In the Dec. 7, 2017, [Information Packet memo](#), staff explained how the new Fund's revenue would be used. Inserted below for your convenience.

- Approximately 7 percent for administration costs for Boulder County to invoice facilities, and collect the funds;
- Approximately 20 percent for 2018-2020 city staff or consultant time to source and manage new renewable energy projects; and
- The remainder to subsidize the development of new renewable energy projects within the city and county of Boulder to offset marijuana facilities' electricity use and help the community achieve its [Climate Commitment](#) goals. Staff envisions using these funds to create new community solar projects for Boulder residents and businesses to subscribe to, with priority given to marijuana facilities and residents in the low to middle income ranges.

The city is still in the process of collecting funds and no projects are currently planned. However, you may hear more about this at your April 10 Study Session.

I hope this information is helpful and please let me know if you have any further questions.

Elizabeth Vasatka

ATTACHMENTS

Attachment A: Proposed Ordinance 8240

Attachment B: Charter for Marijuana Advisory Panel

Attachment C: Update on MAP Memo from City Manager to Council dated 1/5/17

Attachment D: Chart of 2018 Proposed Changes to the Marijuana Code

Attachment E: MAP letter to Council dated 12/18/17

Attachment F: List of MAP Recommended Title 9 Changes

Attachment G: Public Comment emails

ORDINANCE 8240

AN ORDINANCE AMENDING SECTION 5-10-6, "MARIJUANA ODOR EMISSIONS," TITLE 6 "HEALTH, SAFETY, AND SANITATION," REGARDING CHAPTER 6-14, "MEDICAL MARIJUANA," AND CHAPTER 6-16, "RECREATIONAL MARIJUANA," B.R.C. 1981, TO ADOPT REVISIONS RECOMMENDED BY THE MARIJUANA ADVISORY PANEL, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 5-10-6, B.R.C. 1981, shall be amended as follows:

5-10-6. - Marijuana Odor Emissions.

...

(c) A marijuana odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if ~~the city manager receives three or more complaints concerning marijuana odor emanating from the same source from individuals representing separate households, rooming units, or places of business within the city~~marijuana odor is detectable outside the premises.

...

Section 2. The following definitions in Section 6-14-2, B.R.C. 1981, are amended to read as follows:

6-14-2. – Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

...

Cold-Water Extraction means the mix of cold water and ice and marijuana with agitation and filtration to separate the trichomes from the marijuana plant.

...

1 *Cultivation facility or optional premises* means a licensed medical marijuana business that
2 produces and harvests medical marijuana plants for a medical use for distribution by a licensed
3 medical marijuana business. Except as included in this definition, a cultivation facility may not
4 operate any production other than cold-water extraction on its premises.

5 . . .

6 *Financier* means any person who lends money or otherwise provides assets to any person
7 applying for a license or who has been issued a license under this chapter. If a financier is an
8 entity rather than an individual, the same disclosure shall be required for each entity with an
9 ownership interest until a managing member that is a natural person is identified. *Financier* shall
10 not include a bank, savings and loan association, credit union, or industrial bank supervised and
11 regulated by an agency of the state or federal government, or any person in the business of leasing
12 equipment to marijuana business for which the rental amount does not include any percentage
13 of the business or its profits, or any person that has been qualified as a Permitted Economic
14 Interest holder by the Marijuana Enforcement Division of the Colorado Department of Revenue.

15 . . .

16 *Promotional items* means any item, ~~including printed materials, that contain the name
17 and/or logo of a marijuana business and are distributed for free or a minimal cost. *Promotional
18 items*, or "swag" includes stickers, clothing, tangible goods, and similar items that are intended
19 to expose others to the name or logo of a particular business. without a secondary purpose beyond
20 advertising, that contain the name and or logo of a marijuana business and are distributed for
21 free. *Promotional items* include stickers and similar items that are intended to expose others to
22 the name or logo of a particular business. ~~Promotional items~~ *Promotional items* does not include
23 educational materials.~~

24 . . .

25 Section 3. Section 6-14-5, B.R.C. 1981, is amended to read:

6-14-5. - Application.

(a) Application Requirements. An application for a medical marijuana business license shall
be made to the city on forms provided by the city manager for that purpose. The applicant
shall use the application to demonstrate its compliance with this chapter and any other
applicable law, rule, or regulation. In addition to the information required by Chapter 4-1,
"General Licensing Provisions," B.R.C. 1981, the application shall include the following
information:

(15) . . .

(15) Modifications to Approved Medical Marijuana Business License. Prior to making a
modification of a marijuana business that would require a building permit or change
items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall
submit to the city and have approved, when necessary, a completed application for
modification of premises in the form provided by the city.

1 ...

2 Section 4. Section 6-14-8, B.R.C. 1981, is amended to read:

3 **6-14-8. - Requirements Related to Operation of Medical Marijuana Businesses.**

4 ...

5 (i) ~~Renewable Energy Usage Required~~Requirements. A medical marijuana business shall
6 directly offset one hundred percent of its electricity consumption through ~~the purchase of~~
7 ~~renewable energy or carbon offsets,~~ a verified subscription in a Community Solar Garden,
8 or renewable energy generated onsite, or an equivalent that is subject to approval by the
9 city. For medical marijuana businesses licensed by the city on October 22, 2013, this
10 requirement shall apply at the time of renewal of the medical marijuana business license
11 following October 22, 2013.

12 ...

13 (k) Reporting Requirements. A medical marijuana business shall report to the medical
14 marijuana licensing authority each of the following within the time specified. If no time
15 is specified, the report shall be provided within seventy-two hours of the event.

- 16 (1) Transfer or change of financial interest, keyholder, financier, and primary caregiver in
17 the license to the city at least thirty days before the transfer or change.
- 18 (2) Sales and taxable transactions and file sales and use tax reports to the city monthly.
- 19 (3) A violation of any law by any licensee or applicant of a medical marijuana business.
- 20 (4) A notice of potential violation of any law to any licensee.
- 21 (5) Upon city request, any report that the medical business is required to provide to the
22 state. ~~any report that is reasonably necessary for compliance with city law. Any report~~
23 ~~that the medical marijuana business is required to provide to the state.~~
- 24 (6) Reports of all criminal activities or attempts of violation of any law at the medical
25 marijuana business or related thereto shall be reported to the Boulder Police
Department within twelve hours of occurrence.

26 ...

27 Section 5. Section 6-14-8(p), is repealed in its entirety and re-enacted as follows:

28 **6-14-8(p) – Advertisement.**

29 (p) Advertisement. A medical marijuana business may not advertise in any manner except as
30 provided in subparagraph (p)(2).

- 31 (1) Prohibitions. The exceptions in paragraph (2) below shall not apply to advertising that
32 is:
 - 33 (A) inconsistent with the medicinal use of medical marijuana, or misleading, deceptive,
34 false, or designed to appeal to minors;
 - 35 (B) in plain view of or in a place open to the general public, including advertising
utilizing any of the following media: any billboard or other outdoor general

1 advertising device as defined by the zoning code; any sign mounted on a vehicle;
2 any handheld or other portable sign; or any handbill, leaflet, or flier directly handed
3 to any person in a public place, left upon a motor vehicle, or posted upon any public
4 or private property;

5 (C) on a product marked with the name or logo of a marijuana business, in child sizes,
6 designed for the use of minors, or which is misleading, deceptive, false, or
7 appealing to minors;

8 (D) distributed without charge within a marijuana business or any place open to the
9 public;

10 (E) contrary to any provisions of C.R.S. §§ 12-43.3 *et seq.* or 12-43.4, *et seq.* or any
11 regulations adopted thereto; or

12 (F) promotes medical marijuana for recreational or any use other than for medicinal
13 purposes.

14 (2) Exceptions: The prohibition set forth in this subsection (p) shall not apply to:

15 (A) Any sign located on the same zone lot as a medical marijuana center which exists
16 solely for the purpose of identifying the location of the medical marijuana center
17 and which otherwise complies with this code and any other applicable city laws and
18 regulations, which sign includes only the name and address and days and hours of
19 operation of the center;

20 (B) Any advertisement contained within a newspaper, magazine, or other periodical of
21 general circulation within the city or on the internet, which may include coupons;

22 (C) Any non-consumable merchandise or accessories,;

23 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
24 medical marijuana business;

25 (E) A booth at an adult event where the only items distributed are company or
educational materials, and no other items are distributed, shown or sold.

(F) Business cards within the business or handed directly to an individual over the age
of 21;

(G) Showing a government-issued verification of age or military status, or registration
for a charitable event, or similar item the showing of which, without providing a
separate printing to the business, entitles the holder to a discount for a particular
product or service; or

(H) Company materials and educational materials distributed inside the marijuana
business.

Section 6. Section 6-14-9, B.R.C. 1981, is amended to read:

6-14-9. - Right of Entry - Records to Be Maintained.

...

1 (g) ~~Reporting of Energy Use and Carbon Offset Purchases~~Compliance with Renewable
2 Energy Requirements. The records to be maintained by each medical marijuana business
3 and submitted to the city ~~on a quarterly basis~~, shall include, without limitation, records
4 showing on a monthly basis the use and source of energy ~~and the number of certified~~
5 ~~Renewable Energy Credits (RECs) purchased, or and any the subscription level for~~
6 ~~another renewable energy generated onsite or through a Community Solar Garden~~
7 ~~subscription acquisition program approved by the city manager. A statement of the~~
8 ~~projected daily average peak electric load anticipated to be used by the business and~~
9 ~~certification from the building owner or landlord and utility provider that the premises~~
10 ~~are equipped to provide the required electric load, or necessary upgrades will be~~
11 ~~performed.~~ Such records shall include all statements, reports, or receipts to verify the
12 items included in the report of the business. By application for a medical marijuana
13 business license from the city, the medical marijuana business grants permission to
14 providers of the energy ~~or point of origin of the RECs~~ or other renewable energy
15 acquisition program to disclose the records of the business to the city. ~~For m~~Medical
16 marijuana businesses ~~that cultivate medical marijuana, the report shall include the~~
17 ~~number of certified Renewable Energy Credits (RECs) purchased, or the subscription~~
18 ~~level for another renewal energy acquisition program approved by the manager shall~~
19 ~~maintain records showing compliance with the renewable energy requirements in this~~
20 ~~chapter.~~

21 Section 7. Section 6-14-10, B.R.C. 1981, is amended to read:

22 **6-14-10. - Requirements Related to Monitoring and Security of Restricted Areas and**
23 **Inventory.**

24 All components of the security plan submitted with the application, as it may be amended,
25 shall be in good working order, monitored, and secured twenty-four hours per day. A separate
security system is required for each business. The security plan must include, at a minimum, the
following security measures:

...

(c) Alarm System. The medical marijuana business shall install and use an alarm system that
is monitored by a company that is staffed twenty-four hours a day, seven days a week. The
security plan submitted to the city shall identify the company monitoring the alarm,
including contact information, and updated within seventy-two hours of any change of
monitoring company. If the alarm system includes a panic alarm, an operable dedicated
phone for law enforcement to respond to the alarm shall remain on the premises at all times.

Section 8. Section 6-14-15(b)(5), B.R.C. 1981, is amended to read as follows:

6-14-15. - Term of License - Renewals - Expiration of License.

...

(b) Renewal of License. The licensee shall apply for renewal of the medical marijuana
business license at least forty-five days before the expiration of the license. The licensee

1 shall apply for renewal using forms provided by the city. If the applicant fails to apply for
2 renewal at least forty-five days before the expiration of the license but does apply for
3 renewal prior to expiration of the license, the city may process the renewal application if
the applicant submits a late filing fee of \$5,000 at the time of submittal of the renewal
application.

4 ...

- 5 (5) The renewal application shall include: (i) verification that the business has a valid
6 state license and the state license is in good standing; and (ii) a list from the licensee
7 of the city approved keyholders who are employed at the licensed location to be
8 renewed.

9 ...

10 Section 9. Section 6-16-2, B.R.C. 1981, is amended to read as follows:

11 **6-16-2. – Definitions.**

12 The following words and phrases used in this chapter have the following meanings unless
13 the context clearly indicates otherwise:

14 ...

15 Cold-Water Extraction means the mix of cold water and ice and marijuana with agitation
16 and filtration to separate the trichomes from the marijuana plant.

17 ...

18 Cultivation facility means a licensed recreational marijuana business that produces and
19 harvests marijuana plants for distribution by a licensed marijuana business. Except as included
20 in this definition, a cultivation facility may not operate any production other than cold water
21 extraction on its premises.

22 ...

23 Financier means any person who lends money or otherwise provides assets to any person
24 applying for a license or who has been issued a license under this chapter. If a financier is an
25 entity rather than an individual, the same disclosure shall be required for each entity with an
ownership interest until a managing member that is a natural person is identified. Financier shall
not include a bank, savings and loan association, credit union, or industrial bank supervised and
regulated by an agency of the state or federal government, any person in the business of leasing
equipment to marijuana business for which the rental amount does not include any percentage
of the business or its profits, or any person that has been qualified as a Permitted Economic
Interest holder by the Marijuana Enforcement Division of the Colorado Department of Revenue.

...

Promotional items means any item, ~~including printed materials, that contain the name~~
~~and or logo of a marijuana business and are distributed for free or a minimal cost.~~ Promotional
items, or "swag" includes stickers, clothing, tangible goods, and similar items that are intended
to expose others to the name or logo of a particular business. without a secondary purpose

1 beyond advertising, that contain the name and or logo of a marijuana business and are distributed
2 for free. *Promotional* items include stickers and similar items that are intended to expose others
3 to the name or logo of a particular business. *Promotional items* does not include educational
4 materials.

5 ...

6 Section 10. Section 6-16-5(a), B.R.C. 1981, is amended by adding language to
7 subparagraph (16) and adding a new subparagraph (17) to read:

8 **6-16-5. – Application, Modification of Premises.**

9 (a) Application Requirements. An application for a recreational marijuana business license
10 shall be made to the city on forms provided by the city manager for that purpose. The
11 applicant shall use the application to demonstrate its compliance with this chapter and any
12 other applicable law, rule, or regulation. In addition to the information required by Chapter
13 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the
14 following information:

15 ...

16 (16) Modifications to Approved Recreational Marijuana Business License. Prior to making
17 a modification of a marijuana business that would require a building permit or change
18 items required by subsections (6), (7) or (12) of this subsection (a), the licensees shall
19 submit to the city and have approved, when necessary, a complete application for
20 modification of premises in the form provided by the city.

21 (17) Cold-Water Extraction at Recreational Marijuana Cultivation Facility. An area for
22 Cold Water Extraction may be added to a recreational marijuana cultivation facility on
23 the following conditions:

24 (A) The cold-water extraction is conducted in a separate room within the footprint of
25 the cultivation facility;

(B) The addition of the room for the cold-water extraction shall be a modification of
the premises and the application and construction of the cold-water extraction room
shall comply with all requirements for a major modification of a marijuana-infused
product manufacturer;

(B) The requirements for a cold-water extraction room shall be the same as required for
a marijuana-infused production facility and the application and operation of the
cold-water extraction room shall comply with all requirements for such marijuana-
infused production facility; and

(C) The cold-water extraction room shall be considered a separate marijuana business
for all purposes of this code, except that it shall not be subject to the location
restrictions separately from the marijuana cultivation facility.

26 ...

1 Section 11. Section 6-16-7(g), B.R.C. 1981, is amended to read:

2 **6-16-7. - Locations of Recreational Marijuana Businesses.**

3 ...

4 (g) Limitations on Recreational Marijuana Centers and Co-Located Marijuana Center. The
5 following shall be the minimum requirements for a recreational marijuana center and a
6 co-located marijuana center:

- 7 (1) The area of the business is less than or equal to three thousand square feet, ~~and the~~
8 ~~restricted area components of the required security and all paper and electronic records~~
9 ~~are one thousand square feet or less;~~
10 (2) There is a separate reception area for verification of age that has an occupancy limit
11 appropriate for the anticipated customers of the business; and
12 (3) For co-located centers, there is a private consultation room.

13 Section 12. Section 6-16-8, B.R.C. 1981, is amended to read:

14 **6-16-8. - Requirements Related to Operation of Recreational Marijuana Businesses.**

15 ...

16 (e) Owner or Keyholder Required on Premises. No recreational marijuana business shall be
17 managed by any person other than the licensee or the keyholder listed on the application
18 for the license or a renewal thereof. Such licensee or keyholder shall be on the premises
19 and responsible for all activities within the licensed business during all times when the
20 business is open or in the possession of another person.

- 21 (1) In the event the licensee intends to employ a keyholder that was not identified on the
22 license or renewal application, the licensee shall report the name of such keyholder to
23 the city, and such keyholder shall submit to the city, at least thirty days prior to
24 commencing serving as the keyholder, an application containing all of the information
25 required by this chapter and on the license application. Such licensee shall report to the
26 city any change in keyholders at least thirty days prior to employing an additional
27 keyholder, and no more than five days after a keyholder is released from such position.
28 (2) In the event the licensee submits a completed application for the new keyholder with
29 a copy of a valid Occupation Key Badge issued by the state Marijuana Enforcement
30 Division, the applicant may work as a keyholder for the licensee upon submission of
31 the application up until final city determination is made on such application.
32 (3) For a co-located marijuana business that is physically separated, there shall be two
33 keyholders, one designated for each license, within the co-located business. For a co-
34 located marijuana business that is virtually separated, only one keyholder is required
35 within the co-located business.

36 ...

- 1 (i) ~~Renewable Energy Usage Required Requirements.~~ A marijuana business shall directly
 2 offset one hundred percent of its electricity consumption through ~~the purchase of renewable~~
 3 ~~energy or carbon offsets~~, a verified subscription in a Community Solar Garden, or
 4 renewable energy generated onsite, or an equivalent that is subject to approval by the city.
 5 For a recreational marijuana center that has converted pursuant to Subsection 6-16-3(f) or
 6 co-located pursuant to Subsection 6-16-3(g), or a marijuana-infused product manufacturer
 7 licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal
 8 of the marijuana business license following October 22, 2013.
- (j) Limitations on Inventory. The recreational marijuana business shall not maintain any more
 9 marijuana within the premises than the amount stated on the business' license application
 10 to the State of Colorado and city. No plants shall be located in a recreational marijuana
 11 center or a marijuana-infused product manufacturer or a marijuana testing facility. ~~In~~
 12 ~~addition, the establishment shall not maintain any more marijuana within the restricted area~~
 13 ~~than:~~
- 14 (1) ~~Cultivation facility: One thousand plants, provided, however, a cultivation facility may~~
 15 ~~have more than one thousand plants, not including immature plants, if the licensee~~
 16 ~~provides an additional enforcement fee in an amount of \$1 per plant over one thousand~~
 17 ~~plants. Such fee shall be payable annually at the time of licensing and renewal; or~~
 - 18 (2) ~~MIP: Six hundred pounds of marijuana that has not been incorporated into a product~~
 19 ~~and one hundred fifty pounds of marijuana infused product; or~~
 - 20 (3) ~~Testing facility: One hundred pounds of raw marijuana and one hundred pounds of~~
 21 ~~marijuana infused product.~~
- (k) Reporting Requirements. A recreational marijuana business shall report to the recreational
 22 marijuana licensing authority each of the following within the time specified. If no time is
 23 specified, the report shall be provided within seventy-two hours of the event.
- 24 (1) Transfer or change of financial interest, keyholder, or financier in the license to the city
 25 at least thirty days before the transfer or change;
 - (2) Sales and taxable transactions and file sales and use tax reports to the city monthly;
 - (3) A violation of any law by any licensee or applicant of a recreational marijuana business;
 - (4) A notice of potential violation of any law related to the licensee;
 - (5) Upon city request, any report that the recreational marijuana business is required to
provide to the State of Colorado that is reasonably necessary for compliance with city
law. ~~Any report that the recreational marijuana business is required to provide to the~~
~~State of Colorado; or~~
 - (6) Reports of all criminal activities or attempts of violation of any law at the recreational
 marijuana business or related thereto shall be reported to the Boulder Police
 Department within twelve hours of occurrence.
- (l) No Sales Except Directly to User; No Deliveries. Except for sales to another licensed
 marijuana business, all sales of recreational marijuana shall be made in person in the
 restricted area of a recreational marijuana center. All marijuana sales shall be in person,

1 directly to the purchaser. No marijuana sales shall be made via telephone, internet, or other
2 means of remote purchase. Deliveries of marijuana shall occur only in person to the
purchaser at the time of purchase in the restricted area of a recreational marijuana center.

3 (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person
4 to transport recreational marijuana, except as specifically allowed by applicable law, unless
the recreational marijuana being transported meets the following requirements:

5 (1) All marijuana-infused products are ~~hand~~-packaged, sealed, and labeled as provided in
6 this chapter and the products stored in closed containers that are labeled as provided in
this section;

7 (2) All recreational marijuana in a usable form is packaged and stored in closed containers
that are labeled as provided in this section;

8 (3) Each container used to transport recreational marijuana is labeled with the amount of
9 recreational marijuana or marijuana-infused products, or the number and size of the
10 plants, in the container. The label shall include the name and address of the recreational
11 marijuana business that the recreational marijuana is being transported from, and the
name and address of the recreational marijuana business that the recreational marijuana
is being transported to. The label shall be shown to any law enforcement officer who
requests to see the label;

12 (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may
13 be transported with proper bill of sale completed before transport only to another
recreational marijuana business;

14 (5) The recreational marijuana must be accompanied by the manifest in accordance with
state requirements for transportation of recreational marijuana;

15 (6) The recreational marijuana must be accompanied by the email receipt confirmation
16 from the Boulder Police Department in accordance with the rules therefor established
by the police department;

17 (7) When determining and reporting the route for delivery, licensees should select the most
direct route that provides efficiency and safety; and

18 (8) Transport may be initiated from a marijuana business ~~occur~~ only during the hours
19 allowed for operation of the center.

20 (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana
21 and any product containing a usable form of marijuana must be made unusable and
unrecognizable prior to removal from the business in compliance with all applicable laws.
22 This provision shall not apply to licensed law enforcement, including, without limitation,
the Boulder Police Department and the Boulder Fire Department.

23 (o) Possession of Mature Flowering Plants. No more than one-half of the recreational
marijuana plants within a recreational marijuana business may be mature, flowering plants.

24 . . .

25 (r) Separation of Marijuana Businesses – Exceptions for Co-located Businesses.

1 (1) A cultivation facility and manufacturer are separate marijuana businesses requiring
2 separate licenses and separate premises. A medical marijuana ~~center or cultivation or~~
3 manufacturing facility and a recreational marijuana ~~center or cultivation or~~
4 manufacturing facility are separate marijuana businesses requiring separate licenses
5 and separate premises. In addition to all other application requirements for separate
6 premises, each business shall:

- 7 (A) Have separate operations, heating-ventilation-air conditioning, security, and fire
8 suppression systems, and separate access from a public area;
- 9 (B) Be divided within a building from floor to roof. Unless higher performance is
10 required by applicable law, there must be a minimum of a one-hour fire separation
11 between a recreational marijuana business and any adjacent business; and
- 12 (C) Obtain delivery documents and manifests and pay applicable excise tax for
13 movement of any marijuana between the cultivation facility and the manufacturer.

14 (2) A co-located business, including a cold-water extraction facility that is part of a
15 cultivation facility, is excepted from the requirements for separate heating-ventilation-
16 air conditioning (except as required by the industrial hygienist), security, or fire
17 suppression.

18 (3) A cultivation and cold-water extraction facility that is a co-located business is exempt
19 from the requirement for separate access from a public area, so long as the interior
20 connection between the two maintains the required physical and fire separation
21 required between licensed premises.

22 ...

- 23 (w) Organization of Cultivation Facilities and Marijuana-Infused Product Manufacturers. All
24 cultivation facilities and marijuana-infused product manufacturers shall be organized in
25 orderly rows with aisles at least three feet wide, and no more than eight feet between an
26 aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city
27 manager determines that the business has provided a dimensioned floor plan that provides
28 equivalent access and separation between plants and inventory and to exits.

29 ...

30 Section 13. Section 6-16-8(p), B.R.C. 1981, is repealed and reenacted as follows:

31 **6-16-8(p) – Advertisement.**

- 32 (p) Advertisement. A recreational marijuana business may not advertise in a manner except as
33 specifically provided in subparagraph (p)(2).

34 (1) Prohibitions. The exceptions in subparagraph (2) below shall not apply to advertising
35 that is:

- 36 (A) misleading, deceptive, false, or designed to appeal to minors. The following
37 conditions shall apply:

- 1 (B) in plain view of, or in, a place open to the general public, including advertising
2 utilizing any of the following media: any billboard or other outdoor general
3 advertising device as defined by the zoning code; any sign mounted on a vehicle;
4 any handheld or other portable sign; or any handbill, leaflet, or flier directly handed
5 to any person in a public place, left upon a motor vehicle, or posted upon any public
6 or private property;
- 7 (C) on a product marked with the name or logo of a marijuana business, in child sizes,
8 designed for the use of minors, or which is misleading, deceptive, false, or
9 appealing to minors;
- 10 (D) distributed without charge within a marijuana business or any place open to the
11 public; or
- 12 (E) contrary to any provisions of C.R.S. §§ 12-43.3 *et seq.* or 12-43.4, *et seq.* or any
13 regulations adopted thereto.

14 (2) Exceptions: The prohibition set forth in this subsection (p) shall not apply to:

- 15 (A) Any sign located on the same zone lot as a recreational marijuana center which
16 exists solely for the purpose of identifying the location of the recreational marijuana
17 center and which otherwise complies with this code and any other applicable city
18 laws and regulations, which sign includes only the name and address and days and
19 hours of operation of the center;
- 20 (B) Any advertisement contained within a newspaper, magazine, or other periodical of
21 general circulation within the city or on the internet, which may include coupons;
- 22 (C) Any non-consumable merchandise or accessories;
- 23 (D) Advertising which is purely incidental to sponsorship of a charitable event by a
24 recreational marijuana business;
- 25 (E) A booth at an adult event where the only items distributed are company or
educational materials no other items are distributed, shown or sold;
- (F) Business cards within the business or handed directly to an individual over the age
of 21;
- (G) Showing a government-issued verification of age or military status, or registration
for a charitable event, or similar item the showing of which, without providing a
separate printing to the business, entitles the holder to a discount for a particular
product or service; or
- (H) Company materials and educational materials distributed inside the marijuana
business.

...

23 Section 14. Section 6-16-9, B.R.C. 1981, is amended to read:

24 **6-16-9. - Right of Entry - Records to Be Maintained.**

25 ...

1 (g) Reporting of Energy Use and Carbon Offset Purchases Compliance with Renewable
2 Energy Requirements. The records to be maintained and submitted to the city ~~on a quarterly~~
3 ~~basis,~~ by each recreational marijuana business shall include, without limitation, records
4 showing on a monthly basis the use and source of energy and any renewable energy
5 generated onsite or through a Community Solar Garden subscription. ~~the number of~~
6 ~~certified Renewable Energy Credits (RECs) purchased, or the subscription level for another~~
7 ~~renewable energy acquisition program approved by the city manager. A statement of the~~
8 ~~projected daily average peak electric load anticipated to be used by the business and~~
9 ~~certification from the building owner or landlord and utility provider that the premises are~~
10 ~~equipped to provide the required electric load, or necessary upgrades will be performed.~~
11 Such records shall include all statements, reports, or receipts to verify the items included
12 in the report of the business. By application for a recreational marijuana business license
13 from the city, the recreational marijuana business grants permission to providers of the
14 energy ~~or point of origin of the RECs~~ or other renewable energy acquisition program to
15 disclose the records of the business to the city. ~~For~~ Recreational marijuana businesses shall
16 maintain records showing compliance with the renewable energy requirements in this
17 chapter. ~~that cultivate recreational marijuana the report shall include the number of certified~~
18 ~~RECs purchased, or the subscription level for another renewable energy acquisition~~
19 ~~program approved by the manager.~~

20 Section 15. Section 6-16-13, B.R.C. 1981, is amended to read:

21 **6-16-10. - Requirements Related to Monitoring and Security of Restricted Areas and**
22 **Inventory.**

23 All components of the security plan submitted with the application, as it may be amended,
24 shall be in good working order, monitored, and secured twenty-four hours per day. Except for a
25 co-located marijuana business that is virtually separated, a separate security system is required
for each business. The security plan must include, at a minimum, the following security
measures:

...

(c) Alarm System. The recreational marijuana business shall install and use an alarm system
that is monitored by a company that is staffed twenty-four hours a day, seven days a week.
The security plan submitted to the city shall identify the company monitoring the alarm,
including contact information, and be updated within seventy-two hours of any change of
monitoring company. If the alarm system includes a panic alarm, an operable dedicated
phone for law enforcement to respond to the alarm that shall remain on the premises at all
times.

Section 16. Section 6-16-13, B.R.C. 1981, is amended to add a new subparagraph (1) to
read as follows and renumber the remaining subparagraphs:

6-16-13. - Prohibited Acts.

(a) Prohibited Acts. It shall be unlawful for any person to:

1 READ ON SECOND READING, PASSED, ADOPTED this 20th day of March 2018.

2

3

4

Suzanne Jones, Mayor

Attest:

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Lynnette Beck, City Clerk

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**CREATION OF A CHARTER FOR A MARIJUANA ADVISORY PANEL FOR
ANALYSIS OF, SOLICITATION OF PUBLIC INPUT ON
AND DISCUSSION OF POSSIBLE CHANGES TO CITY OF BOULDER
MARIJUANA CODE PROVISIONS**

This is a Charter for a committee for analysis of, solicitation of public input on and discussion of possible changes to the City of Boulder code provisions.

1. The committee shall be appointed by the City manager with the advice and consent of the city council to provide a balanced representation of the variety of interests related to medical and recreational marijuana.

2. The committee shall include, but not be limited to, the following members:

a. Representatives of marijuana consumers, including both recreational and medical users.

b. A representative of the Boulder Valley School District.

c. A representative of the University of Colorado.

d. Representatives to provide physical and mental health perspectives, including youth development theory and best practices in harm reduction/health promotion.

e. A representative of the Chamber of Commerce.

f. Representatives of marijuana businesses, sufficient to represent the interests of businesses engaged in businesses associated with medical marijuana, recreational marijuana, cultivation, retail sales and infused products manufacturing.

g. An attorney experienced in representing marijuana businesses.

h. A person familiar with state regulations, preferably a person from the state marijuana enforcement division, who, if unable to attend all meetings, may be an ex-officio member and not counted toward the limit on the number of members.

3. One person may represent multiple interests described above. The committee shall have no more than 11 members.

4. All meetings of the committee shall be held only after public notice of the date, time and place.

5. All meetings shall be open to the public. The committee shall allow time for public comment at each meeting.

Attachment B - Charter for Marijuana Advisory Panel

6. The city manager and the city attorney are directed to provide staff support to facilitate the committee's work.

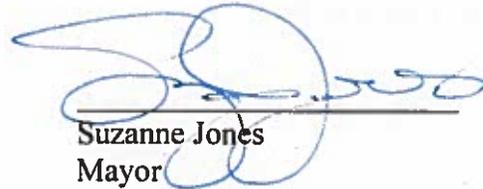
7. The city shall provide a professional facilitator to assist with the committee's work at the outset. The committee shall decide whether a facilitator is necessary at future meetings.

8. The committee shall provide regular updates to the city council about the committee's work. The committee is encouraged to prioritize time-sensitive issues and provide council with any appropriate recommendations on such matters during the first quarter of 2016.

9. The committee shall review both state regulations and city code to determine what specific city code provisions would be appropriate.

10. Council intends that the committee will complete its work by the end of June 2016.

APPROVED this 5 day of January, 2016.



Suzanne Jones
Mayor

ATTEST:



City Clerk



CITY OF BOULDER OFFICE OF THE CITY MANAGER

To: Mayor and Members of Council

From: Jane S. Brautigam, City Manager

Subject: Update on Marijuana Advisory Panel

Date: January 5, 2017

In January 2016, the city council approved the city manager's appointment of 11 members to the ad hoc Marijuana Advisory Panel (MAP) which was charged with providing the city council with guidance on proposed changes to the city's ordinances concerning marijuana business regulations such as advertising, operations, co-location and penalties. Over the course of 2016, the members of the panel worked together with city staff members to provide city council with consensus recommendations for code amendments. These amendments were reviewed and approved by city council on December 6, 2016 .

At the December 6, 2016 council meeting, the city council discussed the option of continuing MAP as a committee that could review newly adopted state marijuana licensing provisions following each legislative session, provide the city with guidance on the impact such changes might have for the city of Boulder, and suggest recommended changes in city code or rules to respond to changes in the state regulatory scheme.

Some representatives of MAP suggested that in addition to current panel members, several representatives of the Boulder community at large be added to the group. As council may recall, the initial membership of the Marijuana Advisory Panel was intentionally focused on marijuana business interests and consumers, with seven of the 11 members related to the business or consumption of marijuana. The remaining 4 members represented community partners: Boulder County Public Health, BVSD, CU-Boulder and the Boulder Chamber of Commerce. See Attachment A for the memo establishing MAP and its members

As a next step in the process begun last year, the city will be proposing administrative regulations in the next few weeks that will help both staff and marijuana license holders in the implementation of the newly adopted ordinance changes. The draft rules will be sent to MAP members for comment before being published for the formal 30-day comment period. MAP has agreed to meet again in the third or fourth quarter of 2017 to review any state regulatory changes adopted by the state legislature or the state licensing division in 2017.

In order to respond to the possibility that future changes in the city of Boulder regulatory provisions regarding marijuana businesses will be necessary, to reflect the desires of MAP to diversify its membership to include members of the general public, and to develop a method for proposed changes to the marijuana codes or rules to be vetted before going to council, staff proposes the following:

1. Beginning in 2017, the Marijuana Advisory Panel would become an on-going city manager appointed working group to review annual changes to state law regarding marijuana business regulations and their impact on the city and to advise the city licensing division about any recommended changes to the city of Boulder ordinances and regulations as a result of changes at the state level.
2. MAP would meet not less than twice a year to review these changes and provide such recommendations. The meetings would be scheduled in the 3rd quarter after the legislative session and the Department of Revenue adopts rules to implement the new laws; and again in the 3rd or 4th quarter so that any proposed changes to Boulder ordinances could be proposed to city council by staff and take effect by the end of each year.
3. Before the first meeting of MAP in 2017, the city manager will contact each serving member of MAP to determine if they would like to remain as members of MAP. Any person who so desires would be able to do so. In addition, up to three community members who have no ties to the marijuana industry and one representative of the newly annexed marijuana businesses would be appointed by the city manager (based on letters of interest received following a public process) to serve on MAP beginning with its first meeting in the 3rd quarter of 2017. Newly appointed members of MAP must be residents of the city of Boulder, or if representing a marijuana business or a city partner must be residents of Boulder County.
4. Over time, the membership in the working group would be 12 people representing the following interests:
 - Marijuana businesses (3)
 - Marijuana consumers (3)
 - Members of the general public (3)
 - Boulder Valley School district (1)
 - Boulder Chamber of Commerce (1)
 - Boulder County Public Health or other health professional knowledgeable in the area of youth development theory and best practices in harm reduction (1)

This would eliminate the specific designation of a place for a CU-Boulder representative as well as the spot for an attorney experienced in representing marijuana businesses. These members may remain on the committee through 2017 but would end their service at that

time. In addition, the state of Colorado Marijuana Enforcement Division ex officio member would be eliminated and instead, an Enforcement Division representative would

be invited to participate on an as needed basis. Each member of MAP must attend at least 50% of the meetings held each year in order to continue his or her service.

5. The MAP meetings would be organized by city staff members and facilitated by a city staff member not involved in marijuana licensing who is trained in meeting facilitation.
6. In order to give the marijuana businesses, including those recently annexed, a specific path to proposing changes, city staff members in charge of marijuana licensing will meet quarterly with marijuana businesses in Boulder to discuss any matters of interest to the businesses and to review proposed changes to the city marijuana codes.
7. For proposed changes to the city marijuana codes, a process would be set up to request changes. Each proposed change would indicate the problem to be solved by the change, the change proposed, and the effect of the proposed change on the community as a whole (including other city marijuana businesses as well as residents and non-marijuana businesses). This is similar to the process used by the Department of Revenue for changes to the liquor, gaming and marijuana rules. Requests submitted could be vetted at the quarterly MJ business meetings and by MAP before being presented to Council.
8. Finally, MAP has recommended some zoning changes related to marijuana businesses in the city. These proposals are not included in the Planning, Housing and Sustainability Department work plan for 2017. If city council is interested in pursuing this work, it will need to be prioritized along with other matters for 2017 or 2018.

We would like council to spend several minutes at an upcoming meeting under Matters from the City Manager to discuss this proposal, and if approved by council, the city manager will move forward with this plan.

ATTACHMENT A



CITY OF BOULDER OFFICE OF THE CITY MANAGER

To: Mayor and Members of Council
From: Jane S. Brautigam, City Manager
Subject: Marijuana Advisory Committee
Date: January 4, 2016

As the marijuana industry in Boulder matures, the city is looking to establish a more collaborative working relationship with the industry while working to update codes to focus enforcement on violations that impact safety and underage use and to reflect concerns about potential health impacts. At its December 8, 2015 study session, the city council directed staff to form a 10-member advisory committee to help Boulder address issues such as advertising, public consumption, co-locating medical and recreational marijuana sales, and penalties for violations.

The draft charter for the committee designates the types of knowledge, experience and well-rounded perspectives that persons who will sit on the committee should bring. This includes:

- representatives of marijuana consumers and marijuana businesses,
- a representative of the Boulder Valley School District,
- a representative of the University of Colorado,
- a representative of the Chamber of Commerce;
- representatives to provide physical and mental health perspectives, including youth development theory and best practices in harm reduction/health promotion;
- an attorney experienced in representing marijuana businesses; and
- a person familiar with state regulations, who will be an ex-officio member

The members of the committee are to be appointed by the city manager with the advice and consent of the city council.

To secure applications from qualified community representatives, I sent letters to officials from Boulder County, the Boulder Valley School District, the University of Colorado the Boulder Chamber of Commerce, and every person who had written to the city council since October expressing an interest in the committee. In addition, Mishawn Cook sent similar letters to every licensee with the city. The city issued a press release and posted information on its website and social media sites as well.

As of December 31, 2015, I had received 50 applications from many well-qualified applicants, representing each of the designated organizations, marijuana businesses of all kinds and both medical and recreational marijuana consumers. I also received applications from non-users, parents, professors, researchers and students. Because the committee is limited to ten members, plus one ex-officio member, selecting committee members from such a group was very difficult. All of the applications are attached to this memo as Attachment B, in roughly the order that they were received. I attempted to

select individuals reflecting a diversity of viewpoints and who would work well in a collaborative and non-confrontational manner.

Subject to the advice and consent of the city council, I am appointing the following people to be members of the committee:

1. Representatives of Marijuana consumers, including both recreational and medical users: Teri Robnett; Jane Theodore
2. A representative of the Boulder Valley School District: Andrew Tucker
3. A representative of the University of Colorado: Don Misch (please see notes below)
4. Representatives to provide physical and mental health perspectives: Heath Harmon
5. A representative of the Chamber of Commerce: Andrea Meneghel
6. Representatives of marijuana businesses: Alana Malone; Jan Cole; and Travis Howard
7. An attorney experienced in representing marijuana businesses: Robert Hoban
8. A person familiar with state regulations, preferably from the marijuana enforcement division: no one from the marijuana enforcement division applied for this position. I recommend that Amanda Ostrowitz, an attorney and the founder and chief strategy officer of CannaRegs, an online database of all state and local Colorado cannabis regulations, serve in this capacity. Ms. Ostrowitz demonstrates a thorough knowledge and understanding of municipal and state laws and regulations regarding cannabis enforcement. In addition, I will be speaking with Lewis Koski, the Director of the Marijuana Enforcement Division prior to the January 5, 2016 city council meeting. In communications with his office, they have indicated that the division would be very willing to provide testimony to the committee.

Because we have limited the number of committee members to ten, with several specifically designated positions, it proved very challenging to select the marijuana consumers and business representatives. In particular, I wanted to ensure that we had a medical marijuana user on the committee. For this role I chose Teri Robnett who represents the Cannabis Patients Alliance and who was a contributor to the statewide educational campaign "Good to Know." In the event that another position had been available, I would have also chosen Bill Rigler of Naropa University, a former "red card" holder and a person skilled at strategic communications and coalition building. I recommend that the city council also appoint Mr. Rigler to this committee, bringing the total to 11, plus one ex officio member.

The University of Colorado representative is Donald Misch, the Senior Assistant Vice Chancellor for Health and Wellness and the Executive Director of Wardenburg. We also received a compelling application from Leisha Conners-Bauer, manager of the Targeted Initiatives/Healthy Youth Alliance of Boulder County and a certified prevention specialist focusing on reduction of substance abuse among youth. Ms Conners-Bauer is the parent of a teenager. At the end of January, Ms. Conners-

Bauer will assume a new role at the University of Colorado working with Dr. Misch at Wardenburg. I would recommend that in the event Dr. Misch is not available to serve on the committee or attend certain meetings, Ms. Connors-Bauer be the designated substitute for the CU position.

Finally, there were several other applicants that I would have liked to appoint to the committee who have expertise or perspectives that may assist the committee in its work. I believe that their input could be valuable and I will provide all of the applications to the committee members so that they have an opportunity to request input from these individuals. In addition, the Charter provides no spots on the committee for community members who do not consume marijuana. In making my appointments, I weighed carefully the comments made by applicants in their emails and letters to discern those most likely to take a balanced and collaborative approach to the issues of marijuana enforcement. This was done to assuage the concerns of some in our community that the committee would be composed only of advocates and health professionals. I believe that the committee will be thoughtful and balanced in its approach.

LIST OF PROPOSED 2018 CHANGES TO THE MARIJUANA CODE

Suggested Change	Discussion Notes	End Result & Code citation¹
Businesses may post hours on signs.	<ul style="list-style-type: none"> This is fair business practice for marijuana businesses to display their business hours. Law enforcement also interprets this as fair business practice. 	MAP and staff approved this change. See B.R.C. 6-14-8(p)(2)(A) & 6-16-8(p)(2)(A)
It is unlawful to sell to a person under 21.	<ul style="list-style-type: none"> This change would add the violation of selling recreational marijuana to someone under the age of 21 to the list of prohibited acts. This does not apply to medical-only centers. 	MAP and staff approved this change. See B.R.C. 6-16-13(a)
A panic alarm required a dedicated phone.	<ul style="list-style-type: none"> Dispatch protocol needs a phone on the premise to ensure that the person triggering the panic alarm is not in harm's way. A dedicated phone allows people to use any type of phone that is dedicated for this purpose and remains on the premises. 	MAP and staff approved this change. See B.R.C. 6-14-10(c) & 6-16-10(c)
Odor complaint of an illegal grow from a neighbor in residential area.	<ul style="list-style-type: none"> This is an enforcement issue related to illegal grows. The status quo is that enforcement officers may not investigate complaints of odor associated with illegal grows without three separate households registering a complaint. A change in the code would allow enforcement officers to write a ticket if odor is detectable outside the premises. 	MAP and staff approved this change. See B.R.C. 5-10-6
Corporate financiers that follow an investment fund structure do not need to disclose all individuals.	<ul style="list-style-type: none"> This was a request from city licensing that would align with the state regarding out-of-state financing. As marijuana business financing structures have become more complicated, it has been more arduous to background check all contributors, even if they have no control of the investment of the money. The new code language is the same as the state. 	MAP and staff approved this change. See B.R.C. 6-14-2 & 6-16-2 Definitions
Businesses will submit a list of key holders at the time of license renewal.	<ul style="list-style-type: none"> The proposed process would be more streamlined and similar to liquor licensing. Currently, staff spends a significant portion of time in compiling lists of current key holders when they are requested by 	MAP and staff approved this change. See B.R.C. 6-14-16(7) & 6-16-15(7)

¹ References to B.R.C. refer to the recommended changes in Ordinance 8240 to the listed section.

Attachment D - Chart of 2018 Proposed
Changes to the Marijuana Code

	<p>businesses.</p> <ul style="list-style-type: none"> • The proposed change would require businesses to send in a list of key holders with their license renewal application to ensure consistency. • This does not impact who undergoes background checks. • Requesting a list outside of key holders would require a \$150 fee to offset staff time. 	
Businesses do not need to package products by hand.	<ul style="list-style-type: none"> • This was a leftover from the provisions prior to the state regulating packaging. • This change improves efficiencies and allows businesses to use technology to package their products. 	MAP and staff approved this change. <i>See</i> B.R.C. 6-16-8(M)(1)
Businesses may transport after hours to accommodate the new transporter license.	<ul style="list-style-type: none"> • There is a new state transporter license that allows businesses to transport after hours to distribute their product and return the product if the recipient is not reached, but city code prohibits this. • This language change would align with the state’s language by allowing transporting that is initiated, but not require completion during business hours. 	MAP and staff approved this change. <i>See</i> B.R.C. 6-16-8(m)(8)
Requirement of MJ business having to submit all state reports to the city.	<ul style="list-style-type: none"> • The original language was added because the state is not required to send reports from businesses to the city. • Sending all state reports to the city has been time consuming for the businesses and city staff. • This change would remove the requirement for all reports to be submitted and require submittal only upon request by the city related to city enforcement. 	MAP and staff approved this change. <i>See</i> B.R.C. 6-14-8(k)(5) & 6-16-8(k)(5); 6-14-5(a)(15) & 6-16-5(a)(16)
MJ businesses do not have inventory limitations with a per plant annual fee.	<p>The fee for Recreational Cultivation facilities, currently adds \$1 per plant annually for all plants (except clones) over 1,000 plants.</p> <ul style="list-style-type: none"> • Adopting the tier structure now used by the state would make more sense for the city and businesses. • The current additional fee is in place to defray the cost of taking down a large grow and to cover all of staff’s costs to inspect a larger location. • A 15,000 square-foot cultivation facility typically holds about 4,500 plants. • Inspections time for larger facilities are greater due to increased number of cameras, vents, fire alarms, etc. Inspections 	MAP and staff approved this change. <i>See</i> B.R.C. 4-20-67(j) and 6-16-8(j)

Attachment D - Chart of 2018 Proposed
Changes to the Marijuana Code

	<p>can be very time consuming if the businesses are not prepared for inspections, if re-inspections must occur, or additional questions must be answered, and they cannot provide the necessary materials in a timely manner.</p> <ul style="list-style-type: none"> • Currently, the largest cultivation facility in Boulder has 47,000 plants. • The license numbers for marijuana businesses in Boulder are increasing each year; they are not replacing each other. 	
Inventory limits for MIPs are not necessary.	<ul style="list-style-type: none"> • The purposes of inventory limits are accomplished by the business meeting fire codes and other regulations. • The change is meant to require MIPs to follow the same rules as cultivation facilities regarding layout and spacing. This is required because inventory limits were removed. 	MAP and staff approved this change. See B.R.C. 6-16-8(j) & 6-16-8(w)
Only one key holder needs to be on location at a virtually separated location and two for a co-located (physically separated) space.	<ul style="list-style-type: none"> • This has been an enforcement issue. • Code change allows two key holders to switch back and forth between medical and recreational marijuana sides in a physically separated co-located business. • Change allows only one key holder to be on site for virtually separated co-located business. • The city's interest is to make sure that there is always a manager within the physical boundaries of the business. 	MAP and staff approved this change. See B.R.C. 6-16-8(e)(3)
Water-based extraction processing should be allowed at cultivation facilities.	<ul style="list-style-type: none"> • Code change allows for water-based extraction processing. It is consistent with the state's requirement for separation between the grow and MIP, but also addresses the city's protection of users by requiring ingestible products to be done in a kitchen-clean environment. • From the excise tax perspective, it is a taxable event to move the raw marijuana from the grow to the MIP. • Both medical and recreational cultivation facilities could have a cold-water extraction room, but since it is a MIP, only Chapter 6-16 contains the requirements for the MIP/extraction portion. 	MAP and staff approved this change. See B.R.C. 6-14-2 and 6-16-2; 6-16-5(a)(17)
Requirements about renewable	<ul style="list-style-type: none"> • This issue came out of confusion of what marijuana businesses can use to offset their 	MAP and staff approved this change.

Attachment D - Chart of 2018 Proposed
Changes to the Marijuana Code

energy offsets and energy reporting requirements need clarification.	<p>electricity use.</p> <ul style="list-style-type: none"> • There were internal inconsistencies in the code that have led to some confusion. • The code changes provide clarification. 	<p><i>See</i> B.R.C. 6-14-8(i); 6-14-9(g); 6-16-8(i); 6-16-9(g)</p>
The language regarding advertising, needs to be clarified.	<ul style="list-style-type: none"> • The current language is unclear, because the prohibitions and exceptions were intermingled. • The proposed code change reorganizes the subsection to first specify that advertising is prohibited, then specify particular prohibitions, then identify all the exceptions. 	<p>MAP and staff approved this change. <i>See</i> B.R.C. 6-14-8(p) & 6-16-8(p)</p>
Restricted areas in wellness centers and dispensaries should have no size limitations.	<ul style="list-style-type: none"> • Currently, restricted areas in retail locations must be less than 1,000 square feet. • Licensees wanted to be able to use more square footage for marijuana products. • This rule was initially made to uphold the intent of the waiting area necessary for identification verification, and for patients in medical wellness centers. • From the enforcement perspective, the number of rooms is more important than the size, so the limitation is removed. 	<p>MAP and staff agreed to the changes. <i>See</i> B.R.C. 6-16-7(g)</p>
MJ businesses would like to give away promotional materials.	<ul style="list-style-type: none"> • This request is related to giving away stickers, t-shirts, etc. that have business logos. • Very challenging to find a balance of interests here. For businesses, marketing and branding are recognized ways to increase revenue. For those concerned about the effect of marijuana on youth, there is a desire not to repeat the mistakes related to smoking i.e. – Joe Camel, by allowing distribution of items that youth like to use on skateboards, laptops, etc. • MAP agreed marijuana businesses could not give away anything for free • Promotional items could not be given away unless they had a secondary purpose, like a pen as compared to a sticker that does not have a secondary purpose. • Challenging to find a definition that fits those parameters. 	<p>MAP and staff agreed to changes. <i>See</i> B.R.C. 6-14-2; 6-14-8(p) & 6-16-2; 6-16-8(p)</p>
Merging medical and recreational marijuana codes	<ul style="list-style-type: none"> • This is something that is supported by both businesses and staff. • It would require a significant amount of 	<p>MAP did not include this issue in its letter to city council and</p>

Attachment D - Chart of 2018 Proposed
Changes to the Marijuana Code

<p>into one.</p>	<p>time for staff to complete this task so if MAP wants it done sooner than staff can do under current work plans, city council will have to provide direction on this in order to get it on the staff work plan for 2018.</p>	<p>staff will aim to accomplish this within existing work plans over the next few years.</p>
<p>“Minimum cost” must be defined in the Code.</p>	<ul style="list-style-type: none"> • This was supposed to have been included in the city manager rules. • This is particularly important from the public health perspective to limit distribution of items attractive to youth. • The state theory is that it must be sold for the true cost of the item. 	<p>MAP agreed that items could not be distributed for advertising purposes that did not have a secondary purpose which eliminate the need for this definition.</p>

December 18, 2107

Dear City Council,

Thank you for your continued support in responsibly regulating the marijuana industry. In this regard, the Marijuana Advisory Panel (MAP) would like to take this opportunity to share with you a couple of our thoughts and experiences from the past year.

Prioritization of Marijuana-Related Tasks in the 2018 Staff Work Plan

As many of you are aware, MAP members gave significant time to fully tackle City Council's charge of improving the City's code in a rapidly changing industry with evolving regulatory needs. At the end of the Panel's 2016 process we presented 44 consensus-based recommendations for protecting the interests and lives of a multitude of stakeholders. Many of these items were addressed by Council, and we thank you for being responsive and supportive of our recommendations. However, more work remains. Some of our recommendations require changes to Title 9 and could not be addressed within MAP's 2016 scope of work. We understand that Title 9 changes mean Council must find room in the annual work plan to accomplish these tasks, which takes place at the annual retreat. As a Panel, we unanimously recommend that Council prioritize these Title 9 recommendations in 2018.

Community Safety

Boulder has a serious youth drug and alcohol problem. As the marijuana industry continues to evolve, it is imperative that industry, the community, and the City have a plan for ensuring public health. There needs to be a productive space for the necessary stakeholders to come together to discuss vital and timely issues such as parent education and prevention messaging. MAP's scope in 2016 and 2017 was focused solely on updating the existing City code. However, it is challenging to truly address the intersection of industry and public health with such a narrow focus. We agree that it is time for MAP to discuss this issue holistically in 2018 – with industry, public health officials, and community members. With this in mind, we recommend to City Council that MAP be encouraged to discuss this in 2018 with the addition of more community voices and perspectives.

Remaining Items to Discuss in 2018 and Beyond

While evaluating and discussing the myriad of issues pertaining to the city of Boulder's marijuana code we found other topics worthy of discussion, particularly education and underage diversion. Boulder County Public Health, Boulder Valley School, District, and University of Colorado at Boulder have thorough but separate strategies in place to mitigate the impacts of legal marijuana use on minors, but we believe that the community-at-large would benefit from a City-led effort. In addition to education and underage diversion, we identified the following issues as ripe for community discussion, but outside the current scope or capacity of MAP and supporting staff:

- Major and minor modifications
- Incidental sponsorship (charity versus adult events)
- Promotional items
- Educational materials prepared by licensees
- Logos on on-premises signs
- Penny joints
- Social clubs
- Community message
- Community outreach
- Carbon offsets

MAP members want to express their understanding for your very full workloads, the simply overwhelming amount of important community items your face as a Council, and the limited time in which you have to work on them and choose priorities. In addition, we want to express to you how hard we worked, together as citizens, educators, protectors of youth and community, city staff, and industry to reach cohesive and comprehensive recommendations. These diverse perspectives shaped the consensus-based recommendations that we submit to you today.

Humbly and respectfully,

Marijuana Advisory Panel

Leisha Connors-Bauer, University of Colorado at Boulder
Heath Harmon, Boulder County Public Health Administration
Travis Howard, Green Dream Cannabis
Keenan Jones, Hoban Law Group
Will Lukela, Marijuana Enforcement Division, Colorado Department of Revenue
Alana Malone, Green Dot Labs
Andrea Meneghel, Boulder Chamber
Bill Rigler, Community Representative
Teri Robnett, Cannabis Patients Alliance
Loree Schwartz, Organic Wellness Dispensary
Jane Theodore, Community Representative
Kate Thomson, The Farm
Andy Tucker, Boulder Valley School District *(Stepping down in 2018 due to job change.)*

	A	B	C	D	E
1	Topic	Issue/Description	Current City Code	Panel Recommendations	Staff Comments
2	Sq. ft. limits	Square foot limitations on all types of MJ businesses (sales, grows, & MIPS).	6-16-7(g) - 3,000 sf retail 6-16-7(h) - 15,000 sf grow/MIP	There should be no limits on the square footage of cultivation facilities and MIPS.	Requires different zone designation
3	Density	Businesses do not want a limit on the number of MJ businesses that can be in proximity to other MJ businesses, schools, day care and rehab facilities.	No more than 3 MJ businesses w/in 500 ft.of each other. 6-14-7(f)(3); 6-16-7(e)(3)	There should be no density restrictions on cultivation facilities and MIPS. This does not apply to stores.	Diversity of business type had been an important principle to city council. Sustainability negatively affected by lack of diversity of businesses. Currently, it is very challenging for enforcement to determine the source of mj odor when they investigate complaints, increasing the density will likely exacerbate this situation. Increasing the availability of spaces for marijuana businesses will increase the staff necessary to process marijuana licenses for Licensing, Code Enforcement, Police, and City Attorney.
4	Limit on size of cultivation facilities.	Businesses want to be able to combine up to 5 grows of 15,000 sf each into any combination of ownerships so could have 1 grow with 75,000 sf or 2 grows of 37,500 sf each, etc.	6-16-7(b)(3)	The 5 grow licenses that 1 licensee is allowed to hold should be able to be combined into any combination of locations for a total of 75,000 sf.	Contrary to council principle to prevent monopoly in Boulder. Requires amendment to title 9 to change zoning to allow over 15,000 sf .
5	Transfer license to new owner in new location	Businesss want the ability to transfer their license to a new owner in a new location.	6-16-3(e)(3)	Allow transfer of license to new location	Additional issues to consider when transferring to a new location as opposed to transferring a license in the same location. For instance, zoning restrictions, size/DENSITY/DISTANCE restrictions and neighborhood effects. A new license is required for a new location rather than transferring an existing license with no land use review. This logic parallels the liquor code.

* MIPS (Marijuana Infused Products)

From: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Date: March 7, 2018 at 6:06:20 PM MST
To: "Llanes, Sandra" <LlanesS@bouldercolorado.gov>
Subject: FW: Boulder Marijuana Rule Change Suggestions

Mishawn J. Cook
Licensing Manager
Certified Municipal Clerk



**City of Boulder
Finance**

O: #303-441-3010
cookm@bouldercolorado.gov

Finance Department
1777 Broadway | Boulder, CO 80302
Bouldercolorado.gov

From: Jeff Gard [<mailto:jeff@gardlawfirm.com>]
Sent: Tuesday, February 20, 2018 4:59 PM
To: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Cc: Austin Hiatt <austin@gardlawfirm.com>; licensestaff <licensestaff@bouldercolorado.gov>
Subject: Re: Boulder Marijuana Rule Change Suggestions

Mishawn,

Thank you for your response. I am not sure I am patient enough to wait for Summer!
I'll see you at the council meetings in March.

Jeff

Jeffrey S. Gard

Attachment G - Public Comment Emails

Gard Law Firm, LLC
Attorneys at Law
2541 Spruce Street
Boulder, Colorado 80302
Telephone: 303-499-3040
Facsimile: 303-379-6256
Website: www.gardlawfirm.com
www.marijuanalawscolorado.com

The email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the named addressee or have received this email in error, please notify the sender immediately at email@gardlawfirm.com and delete this email and any attachments from your system.

On Feb 20, 2018, at 3:58 PM, MJadvisorypanel
<MJadvisorypanel@bouldercolorado.gov> wrote:

Hello, thank you for your suggestion forms. The MAP has completed their suggestion process for the Boulder Revised Code 2017 amendments that are heading to City Council next month in March 2018.

However, subject to City Manager's direction, your submitted suggestion forms would be provided to the 2018 MAP for their summer 2018 review process.

Thank you, Mishawn Cook

Mishawn J. Cook
Licensing Manager
Certified Municipal Clerk
<image001.png>
O: #303-441-3010
cookm@bouldercolorado.gov

Finance Department
1777 Broadway | Boulder, CO 80302
Bouldercolorado.gov

From: Austin Hiatt [<mailto:austin@gardlawfirm.com>]
Sent: Thursday, February 15, 2018 11:30 AM
To: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Subject: Boulder Marijuana Rule Change Suggestions

Dear Marijuana Advisory Panel,

Attachment G - Public Comment Emails

Please see the attached Rule Change Submission Forms from Mr. Gard for your review. Please let us know if you have any questions or would like further information about any of these suggested changes.

Regards,

Austin Hiatt
Associate Attorney

<image002.png> Austin Hiatt
Gard Law Firm, LLC
2541 Spruce Street
Boulder, Colorado 80302
Telephone: [\(303\) 499-3040](tel:(303)499-3040)
Facsimile: [\(303\) 379-6256](tel:(303)379-6256)
electronic mail: austin@gardlawfirm.com
website: www.gardlawfirm.com
Multi-year winner Best Law Firm in Boulder

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From: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Date: March 7, 2018 at 6:06:06 PM MST
To: "Llanes, Sandra" <LlanesS@bouldercolorado.gov>
Subject: FW: Off-Site Cannabis Products Storage in Boulder Area

Mishawn J. Cook
Licensing Manager
Certified Municipal Clerk



**City of Boulder
Finance**

O: #303-441-3010
cookm@bouldercolorado.gov

Finance Department
1777 Broadway | Boulder, CO 80302
Bouldercolorado.gov

From: Kelsey Riley [<mailto:kelsey@bloom.farm>]
Sent: Tuesday, February 20, 2018 4:17 PM
To: Cook, Mishawn <cookm@bouldercolorado.gov>
Subject: Re: Off-Site Cannabis Products Storage in Boulder Area

Mishawn,

Thank you for this information and quick reply.

Very Best,

Kelsey

On Tue, Feb 20, 2018 at 2:41 PM, Cook, Mishawn <cookm@bouldercolorado.gov> wrote:

Attachment G - Public Comment Emails

Hello, the City of Boulder does not currently allow off-site storage locations, but if you would suggest that the City of Boulder should allow those, please then complete the MJ suggestion form linked here:

https://www-static.bouldercolorado.gov/docs/BRC_Rule_change_submission_form-1-201709061246.pdf?_ga=2.253247817.1583521262.1519166401-117174888.1454632848

Subject to City Manager instruction, the Marijuana Advisory Panel will review your suggestion, and if the local law change was supported, then they would make that suggestion to our City Council.

Thank you, Mishawn Cook

Mishawn J. Cook
Licensing Manager
Certified Municipal Clerk



**City of Boulder
Finance**

O: #303-441-3010
cookm@bouldercolorado.gov

Finance Department
[1777 Broadway | Boulder, CO 80302](https://www.boulder.gov/1777/Broadway/Boulder_CO_80302)
[Bouldercolorado.gov](https://www.boulder.gov)

From: Kelsey Riley [mailto:kelsey@bloom.farm]
Sent: Monday, February 19, 2018 4:44 PM
To: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Subject: Off-Site Cannabis Products Storage in Boulder Area

Hello,

I am writing on behalf of a newly licensed MIP that has recently established itself in an extremely remote jurisdiction. We are interested in obtaining a permit for an off site storage facility that is more accessible and centrally located and are curious about the councils stance on this in Boulder. More specifically, would Boulder permit off site storage for MIPs not located within Boulder's jurisdiction? We can find nothing under "off-site storage" in the Code of Colorado Regulations that indicates whether or not this is lawful. After reviewing the Off-Site Storage Facilities application it would seem that the answer will be specific to municipality. Any information you could provide regarding this from a compliance stand point would be extremely useful and appreciated. Thank you in advance for your time.

Very Best Regards,

Kelsey Riley

Attachment G - Public Comment Emails

O: #303-441-3010

cookm@bouldercolorado.gov

Finance Department

1777 Broadway | Boulder, CO 80302

Bouldercolorado.gov

From: Austin Hiatt [<mailto:austin@gardlawfirm.com>]
Sent: Thursday, February 15, 2018 11:30 AM
To: MJadvisorypanel <MJadvisorypanel@bouldercolorado.gov>
Subject: Boulder Marijuana Rule Change Suggestions

Dear Marijuana Advisory Panel,

Please see the attached Rule Change Submission Forms from Mr. Gard for your review. Please let us know if you have any questions or would like further information about any of these suggested changes.

Regards,

Austin Hiatt

Associate Attorney

Attachment G - Public Comment Emails

Name: Jeffrey S. Gard	Title: Partner
Company/Organization: Gard Law Firm, LLC	Date: 2/15/2018
Phone: 303-499-3040	Email: email@gardlawfirm.com
Mailing Address: 2541 Spruce Street, Boulder, CO 80302	
Boulder Revised Code or City Manager Rule suggested amendment with Legal Citation/Chapter/Section: B.R.C. 6-16-3(i)	
Suggested Wording for Change: Virtual Separation of Co-located Marijuana Business. A co-located business may be virtually rather than physically separated if the businesses provide evidence that they have maintained their respective books and records in compliance with Section 6-16-9 of this chapter for the twelve months preceding the application for virtual co-location. For businesses that have been open for less than twelve months and those who have not complied with Section 6-16-9 in the past, the business shall provide evidence satisfactory to the city manager of the manner in which it will comply with Section 6-16-9. A business that has previously applied to be physically separated may apply to revise co-location of the business from physical separation to virtual separation or from virtual separation to physical separation at any time, even if the business has previously applied to add a co-located license or otherwise change method of co-location.	
Basic Justification for Suggested Change: Businesses that previously converted to a physically co-located business or have added a license to be co-located should be permitted the flexibility to modify their business arrangement at will. The current code does not explicitly prohibit such changes but it is the practice of Boulder's marijuana licensing department to treat co-location changes as a one-time change. This change would provide clarity to license holders and Boulder's licensing staff in future modification applications.	
Examples of when the current Code or Rule has caused a problem (<i>please provide real world examples</i>): Licensed businesses currently seeking to convert a physically co-located store to a virtually co-located store have been prevented from doing so due to the ambiguity in this code section and the licensing department's policy that the co-location changes are one-time only.	
Explain how the change would affect/benefit the Industry: Changing this section would benefit licensed marijuana businesses by giving them the flexibility to become physically or virtually co-located. Virtually separated co-located businesses have the advantage of better use of available floorspace while physically co-located businesses have the benefit of allowing medical marijuana card holders under 21 years of age to access the medical portion of the business.	
Explain how the change would affect/benefit the City organization: This change will have little impact on the City. There will be few of these applications and those that are submitted would be required to pay fees associated with these sorts of changes.	
Explain how the change would affect/benefit the Public: The public would not be impacted in a meaningful way, except having the availability of better marijuana businesses that are structured in a way that is appropriate for the building is in.	
List any documents you have provided which support the proposed change:	

City Response and Comments:

To be submitted for consideration by Marijuana Advisory Panel

To be submitted for consideration by marijuana business working sub-group

Denied (i.e. conflicts with state law, exceeds funding or resources limit, needs additional clarification or justification, etc) (*see Comments below*)

Comments:

Attachment G - Public Comment Emails

Name: Jeffrey S. Gard	Title: Partner
Company/Organization: Gard Law Firm, LLC	Date: 2/15/2018
Phone: 303-499-3040	Email: email@gardlawfirm.com
Mailing Address: 2541 Spruce Street, Boulder, CO 80302	
Boulder Revised Code or City Manager Rule suggested amendment with Legal Citation/Chapter/Section: B.R.C. 6-14-8(p)(2)(A): Advertisement (Medical) B.R.S. 6-16-8(p)(2)(A): Advertisement (Retail)	
Suggested Wording for Change: (A) Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations, which sign includes the name and address of the center, hours of operation, and the logo of the business;	
Basic Justification for Suggested Change: Marijuana businesses should be permitted to have signs such that customers can identify the location more easily. If the sign does not "advertise" but is serving to identify the business, a logo should be permitted on signage for the business, as it is with any other retail business in Boulder. This change would bring Boulder more in line with the current limitations at the state level, which requires that the sign "exists solely for the purpose of identifying the location." M 1111	
Examples of when the current Code or Rule has caused a problem (<i>please provide real world examples</i>): Licensees displaying a logo on their door have been forced to remove the logo and pay to revise signs that include the business logo, even if the logo does not otherwise violate the Boulder marijuana advertising rules.	
Explain how the change would affect/benefit the Industry: This change would benefit the industry by allowing customers to more easily identify the business they are trying visit, as well as make customers more comfortable knowing that they are entering the right business. The current City ordinance puts Boulder businesses at a competitive disadvantage with neighboring counties and municipalities.	
Explain how the change would affect/benefit the City organization: The change would have almost no impact on the City. Enforcement costs and time would be identical to the current ordinance and there are no other foreseen costs to the City.	
Explain how the change would affect/benefit the Public: The change would benefit the public by allowing citizen interactions with marijuana businesses to be more predictable.	
List any documents you have provided which support the proposed change:	

Attachment G - Public Comment Emails

City Response and Comments:

To be submitted for consideration by Marijuana Advisory Panel

To be submitted for consideration by marijuana business working sub-group

Denied (i.e. conflicts with state law, exceeds funding or resources limit, needs additional clarification or justification, etc) (*see Comments below*)

Comments:

Attachment G - Public Comment Emails

Name: Jeffrey S. Gard	Title: Partner
Company/Organization: Gard Law Firm, LLC	Date: 2/15/2018
Phone: 303-499-3040	Email: email@gardlawfirm.com
Mailing Address: 2541 Spruce Street, Boulder, CO 80302	
Boulder Revised Code or City Manager Rule suggested amendment with Legal Citation/Chapter/Section: B.R.C. 6-16-13(a)(31); Prohibited Acts	
Suggested Wording for Change: Remove B.R.C. 6-16-13(a)(31) and create a new section for the licensing and regulation of marijuana social clubs, to provide a legal means to socially consume cannabis.	
Basic Justification for Suggested Change: Colorado's legalized marijuana is available to tourists, individuals living with children, and individuals living in structured communities like retirement homes. These groups may not have a safe and legal location to consume marijuana that is purchased and possessed legally. Allowing there to be regulated social clubs for consumption keeps consumption away from illegal or unsafe areas like hotels, parks, and homes with children.	
Examples of when the current Code or Rule has caused a problem <i>lease provide real world examples</i>): This has been an ongoing issue in Colorado since retail legalization, especially with regards to tourism. Hotels regularly deal with visitors consuming marijuana in violation of their policies and often in violation of state law.	
Explain how the change would affect/benefit the Industry: Adding Designated Consumption Areas to the licenses granted by the City of Boulder would allow other licensed marijuana businesses to increase sales to communities who would benefit from the Designated Consumption Areas, as well as drive new revenue through fees for admission. Public consumption in areas such as the Pearl Street Mall create negative impacts on local businesses and create substantial law enforcement costs, which can be mitigated through the use of Designated Consumption Areas.	
Explain how the change would affect/benefit the City organization: This change would impact the City by requiring the city to license and enforce one additional type of marijuana business. It would benefit the City by reducing police calls for illegal marijuana consumption, and by increasing the City's tourism when compared to other counties and municipalities like Denver that allow marijuana Designated Consumption Areas. There is potential for collection of new application fees and associated taxes.	
Explain how the change would affect/benefit the Public: This change would benefit the public by providing citizens who wish to purchase and consume marijuana a safe and legal place to consume marijuana without consuming around children, violating lease terms, violating hotel policies, or violating Boulder and Colorado law. Designated Consumption Areas would also serve as social spaces for like-minded individuals, helping to build community. Reducing public consumption in Boulder's parks and malls will improve the quality of those resources for Boulder citizens.	
List any documents you have provided which support the proposed change:	

City Response and Comments:

To be submitted for consideration by Marijuana Advisory Panel

To be submitted for consideration by marijuana business working sub-group

Denied (i.e. conflicts with state law, exceeds funding or resources limit, needs additional clarification or justification, etc) (*see Comments below*)

Comments:

Marijuana Advisory Panel (MAP)
October 24, 2018
12:30 PM to 3:30 PM
City Council Chambers
1777 Broadway

12:30 PM Welcome and Introductions

12:40 PM Work Plan Direction from City Council to MAP

1:00 PM Energy Offsets

Climate+Sustainability Division staff will provide a brief summary of recommendations from staff and marijuana businesses on:

- Carbon Action Plan (CAP) tax payments will be credited towards the offset fees paid by marijuana businesses.
- The requirements for energy offsets should not apply to marijuana centers or marijuana-infused product manufacturers.

2:00 PM BREAK

2:15 PM Housing & Human Services (HHS) Report on Expenditure of Funds

City staff will provide a summary and background information on the Housing and Human Services report on expenditure of marijuana funds. MAP members will share their perspectives on the content of this preliminary report.

2:45 PM Discussion of State Law Changes

City staff will provide an update on issues that emerged from the 2017-2018 legislative session, and MAP members will have an opportunity to share their own reflections on the session. MAP will identify any local law changes necessitated from 2018 changes to state law or regulations.

3:20 PM Public Comment

3:25 PM Next Meeting – November 29 from 12 to 3:30 PM

- Do need to meet on November 29?
- What will we discuss?

3:30 PM ADJOURN

CITY OF BOULDER, COLORADO

Office of the City Attorney
Municipal Building
1777 Broadway
Post Office Box 791
Boulder, Colorado 80306
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MEMORANDUM

TO: Marijuana Advisory Panel

FROM: Mishawn Cook, Carolyn Elam, Kathy Haddock, Sandra Llanes, Matt Sundeen,
and Elizabeth Vasatka,

RE: Staff Report for 2018 MAP meeting – October 24, 2018

DATE: October 9, 2018

The City Council direction from the July 10, 2018, Study Session, asked MAP to follow up on three issues. The Study Session summary from the September 20, 2018 Council meeting is attached as **Attachment A**. The three issues are:

- A. Consider the recommendation(s) from staff and marijuana businesses regarding:
 1. The requirement for all marijuana business to offset their electricity consumed; and
 2. Whether the requirements should be removed for retail marijuana and/or manufacturer-infused producers.
- B. Identify any local law changes necessitated from 2018 changes to state law or regulations.
- C. Review the Housing and Human Services report detailing expenditure of marijuana excise tax funds for education and provide feedback.

Following is the report from staff on the three issues. Representative from each respective city department will be present at the MAP meeting for a brief presentation and questions:

A. Electricity consumption. The marijuana businesses and staff recommend:

1. Carbon Action Plan (CAP) Tax payments will be credited towards the offset fees paid by marijuana businesses.
2. The requirements for energy offsets in BRC 6-14-8(i) and 6-16-8(i) should not apply to marijuana centers or marijuana-infused product manufacturers.

B. 2018 State changes:

1. The state legislature adopted additional state-level licenses and permits during the 2018 session but did not adopt any law or regulation that requires change to the city code or rules.
2. The state added categories for Transporter Licenses, Centralized Distribution, and Research and Development Facilities. Boulder's zoning for marijuana licenses does not permit storage locations that are separate from a marijuana center or cultivation facility. If MAP wanted to pursue such licenses in the city, it could be added to the requested Title 9 changes since it would need a use designation prior to being added as an additional marijuana license. The research and development investigation on seeds, plants and cloning is already occurring in cultivation facilities and no further code amendments are needed to accommodate state law.
3. The state also adopted new conditions for employee samples. These changes do not require a city code change. The state changes do not allow consumption or being under the influence on licensed premises in the city or eliminate the requirement for transport paperwork. Use tax also continues to be due on goods withdrawn from inventory.

C. Housing and Human Services Report

In June 2016 the city executed a five-year contract with Boulder County Community Services BCCS to implement the Substance Education and Awareness (SEA) program using revenues from the recreational marijuana sales tax. Through the SEA program, the city hoped to achieve four basic 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.

To achieve SEA program goals, BCCS selected subcontractors to implement evidence-based programs or promising practices that could increase youth awareness, increase perceptions of risk and prevent substance use and abuse. The city contracted with OMNI Institute, a social science evaluation firm, to independently evaluate the SEA program.

In 2017, BCCS and SEA subcontractors began fully implementing programs and strategies. SEA funding supported the following specific subcontractor activities in 2017:

- YMCA of Boulder Valley used SEA funding to enhance peer social support programs for teens. In 2017, the YMCA conducted eight pro-social events and three service learning projects for City of Boulder youth.
- The YMCA used SEA funding for its “You Make a Difference” campaign for adult influencers. Through the campaign, the YMCA trained 90 percent of all staff who work with youth and 80 percent of sports coaches and preschool and school-age program instructors.
- Boulder County Public Health’s “Break the Cycle” program used SEA funding for group sessions for clients. Break the Cycle utilizes peer-based group intervention to prevent initiation of injection drug use.
- Boulder County Public Health used SEA funding to support its “[Out of Reach](#)” safe storage campaign. This mixed media campaign utilized digital advertising and placards on Boulder County busses to educate parents about safely storing marijuana and other substances.
- The Boulder Valley School District used SEA funding to implement the [Sources of Strength](#) program at Casey, Centennial, Manhattan, Platt and Southern Hills middle schools. Each school completed two peer leader messaging events.
- The Boulder Valley School District used SEA funding to help launch the [EFFEKT](#) program in Casey, Centennial, and Southern Hills middle schools. EFFEKT is an evidence-based positive youth development program designed to reduce youth alcohol consumption. SEA funding helped support educator trainings and update training modules with national and local data.
- El Centro Amistad used SEA funding to provide weekly Teen Outreach Program ([TOP](#)) sessions for City of Boulder Latino youth. TOP empowers at-risk teens with tools and opportunities needed to avoid risky behaviors and become community leaders. Amistad also used SEA funding to host a Youth and Parent Prevention Conference.
- OMNI Institute trained and engaged coalition partners in outcome data collection designed to fulfill on the SEA program objectives. OMNI also conducted a coalition partner survey and launched the SEA data dashboard.

SEA program activities continued in 2018. In April 2018, BCCS used SEA funding to support the Colorado Speak Now shared messaging campaign. The two-month media campaign, timed to coincide with prom season, graduation and early summer, provided targeted messaging for youth and adult influencers throughout Colorado. The City’s SEA funding supported additional media placements in the Boulder market including radio and TV ads, bus ads, online displays, advertisements on Pandora and print and digital ads with local newspapers.

Other activities in 2018 included:

- Implementation of a safe storage media and education campaign to reduce accidental ingestion or unintended access for all substances including marijuana, alcohol and prescription drugs;
- Distribution of educational information about the nature and extent of alcohol and other drug use, abuse, addiction and the effect on individuals, families and communities;
- Distribution of information that increases awareness of available substance use and addiction prevention programs and services;
- Implementation of the ‘*Effekt*’ program in three City of Boulder BVSD middle schools, to maintain parents’ restrictive attitudes toward underage drinking;
- Implementation of the ‘Sources of Strength’ (SOS) program in five City of Boulder BVSD middle schools, to enhance youth protective factors;
- Implementation of the TOP program targeting BVSD middle school youth to promote health behaviors and protective factors among Latino youth;
- Training about substance abuse prevention and positive youth development for all staff, coaches and volunteers of the YMCA of Boulder Valley;
- Providing opportunities for at-risk populations among City of Boulder residents to participate in pro-social activities that exclude alcohol and other drugs and for middle school City of Boulder youth to participate in service learning projects; and
- Providing, arranging or sponsoring Substance Abuse Prevention Skills Training (SAPST) seminars for all subcontractors of SEA to reinforce consistent messaging and methods and provide technical assistance on coordination and effective service implementation.

Since 2016, SEA-funded programs have directly reached approximately 2100 Boulder youth and adult influencers. SEA-funded media campaigns made an estimated 5.2 million impressions in the Boulder market.

OMNI Institute’s 2017 report about the SEA program is included as **Attachment B**. A second report about SEA program progress will be available in December 2018.

Additional items:

Suggestion Forms: The city did receive several suggestion forms that included requests to fast track Title 9 changes, conversion of businesses, sign codes, and to change the penalty guidelines. These items were not included in the study session recommendations, and more importantly are requests to re-review items already considered by MAP. In response to a direct question at the study session, Council said that MAP was not to re-examine previous decisions by MAP.

Marijuana Issues Unrelated to Licensed Businesses: The city continues to experience problems with unlicensed marijuana locations and from the use of butane for hemp extraction. Staff will be

presenting Title 5 code amendments related to these issues, but these will not include any proposals related to licensed businesses. As they are outside of the charter for MAP, they would not be presented to MAP previously, but the city does plan to provide links to drafts at the quarterly manager meetings in case any licensed marijuana businesses have comments.

Quarterly Manager Meetings: Staff plans to continue holding quarterly manager meetings. We have heard the requests to make the meetings more useful by being more interactive rather than reiteration of requirements for businesses. As always, the PowerPoint presentations, handouts, and recordings from previous manager meetings will continue to be available on the city's website. Businesses will be held to knowing the information contained in those presentations.

However, to make the meetings more useful to businesses, staff is making changes to the format of the meetings to make them more two-way dialogue and problem solving rather than the city providing information. Staff will also present about any future City Manager draft Rules at these meetings, before they are submitted for publication requirements. Please let us know of any suggestions you have to make the quarterly meetings useful for licensed businesses.

Submitted to MAP for October 24, 2018 Meeting



CITY COUNCIL AGENDA ITEM COVER SHEET

MEETING DATE:
September 20, 2018

AGENDA TITLE

Consideration of a motion to accept the July 10, 2018 Study Session Summary regarding the Marijuana Advisory Panel (MAP)

PRIMARY STAFF CONTACT

Kathy Haddock, Senior Counsel, 303.441.3020

REQUESTED ACTION OR MOTION LANGUAGE

Consideration of a motion to accept the July 10, 2018 Study Session Summary regarding the Marijuana Advisory Panel (MAP)

ATTACHMENTS:

Description

- ▣ **Memo and Attachment**



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 20, 2018

AGENDA TITLE

Consideration of a motion to accept the July 10, 2018 Marijuana Advisory Panel (MAP) Study Session Summary.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas Carr, City Attorney
Kathy Haddock, Senior Counsel
Sandra Llanes, Deputy City Attorney
Mishawn Cook, Licensing Manager

EXECUTIVE SUMMARY

This agenda item provides a summary of the July 10, 2018 City Council Study Session on the work of the Marijuana Advisory Panel (the "MAP") and direction for the future of the MAP.

STAFF RECOMMENDATION**Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to accept the July 10, 2018 Marijuana Advisory Panel (MAP) Study Session Summary.

BACKGROUND

Background information can be found in the July 10, 2018 Study Session Memorandum and materials found here:

https://documents.bouldercolorado.gov/WebLink/0/edoc/165906/Agenda_2018_7_10_Meeting.pdf

NEXT STEPS

Staff will set two MAP meetings with the facilitator in 2018 to address the three issues identified by council:

- Consider the recommendation(s) from staff and marijuana businesses regarding the requirement for all marijuana businesses to offset their electricity consumed and whether the requirements should be removed for retail marijuana or manufacturer-infused producers.
- Identify any local law changes necessitated from 2018 changes to state law or regulations.
- Review the soon to be released Housing and Human Services report detailing expenditure of marijuana excise tax funds for education and provide feedback.

The agendas for the meetings will provide sufficient information so that members can determine how the proposed issue will affect the interests the member is representing. Prior to the MAP meetings, staff for the Energy Offset Fund will meet with marijuana businesses to come up with consensus recommendations for the MAP, and information about the expenditure of the marijuana excise tax funds and report updates from the group(s) awarded the funds will be provided to the MAP.

The MAP's work will be complete after the conclusion of the 2018 meetings. In 2019, council will determine if it wants to continue to appoint an advisory commission on marijuana issues.

ATTACHMENTS

A – Summary of the July 10, 2018 Marijuana Advisory Panel (MAP) study session

July 10, 2018
City Council Study Session Summary
Marijuana Advisory Panel (MAP)

PRESENT

Council Members: Suzanne Jones, Sam Weaver, Mary Young, Liza Morzel and Cindy Carlisle

Staff Members: Jane Brautigam, Tom Carr, Kathleen Haddock, Mishawn Cook, Elizabeth Vasatka and Caroline Elam

PURPOSE

The purpose of this study session was to present the work of the Marijuana Advisory Panel (the “MAP”) to date and direction for the future of the MAP.

PRESENTATION

The MAP completed the work of its charter scope as follows:

- Differences between state and local law is appropriate -
 - State: Focused on licensing to prevent sales to youth, out-of-state and black market;
 - City focus:
 - Addressing the effect of marijuana businesses on the community and youth; and
 - Providing appropriate enforcement to mitigate negative impacts.
- Boulder Revised Code changes recommended by consensus were adopted by council in 2016 and 2017.
- Identified potential changes to Title 9 of the Boulder Revised Code which affect density of land uses regarding marijuana businesses.
 - Council has not prioritized the Planning Department’s 2017 or 2018 work plans.
- Items deferred by the MAP -
 - Social use clubs – the MAP will reconsider allowing after state adopts regulations.
 - Analysis of ways to support public safety and community health.
 - Address marijuana odor issues in neighborhoods.

The MAP’s work was extended through 2017 to recommend changes needed to address any state law changes and any unintended consequences from 2016 code changes. The MAP provided additional consensus recommendations that were adopted by council.

KEY ISSUES IDENTIFIED

The MAP was formed so that proposals for amendments to the marijuana code would be analyzed by a group of interested parties representing various backgrounds before being brought to council. Prior to forming the MAP, requests for changes to the code came from the businesses and went directly to council without any input from the broader community.

Distilling the effect of the MAP:

- The MAP was very successful in reaching consensus on a number of different issues and provided a platform to hear input from different perspectives.
- Staff initiatives brought about by the MAP's work have helped provide opportunities for marijuana businesses to provide input on marijuana regulations without having to bring changes before council:
 - Quarterly meetings with business owners, managers and staff to address impacts on marijuana businesses that do not affect the broader community.
 - Providing a form for suggesting changes to the code modeled after the state form for recommendations on changes to the liquor law.
 - Centralizing odor complaints so they can be tracked and prioritized.
 - Monitoring state law and regulations to identify potential conflicts.
 - Establishment of best practices for odor control specific to cultivation facilities.
- The MAP included some individuals outside of Boulder to gain a statewide perspective which helped with its original charter but is not recommended for the future.
- The current MAP will address three issues in 2018, as specified by council:
 - The recommendation(s) from staff and marijuana businesses regarding the requirement for all marijuana businesses to offset their electricity consumed.
 - Identify any local changes necessitated from 2018 changes to state law or regulations.
 - Review the report resulting from the expenditure of marijuana excise tax funds and provide feedback.
- For the future, council will determine if there is to be an advisory committee on marijuana issues. If so, it should include more members of the community not related to marijuana businesses.
- The work of the MAP was very labor intensive for the members and staff. Community members and those representing youth issues found the time commitment to this working group burdensome.
- The purpose of the MAP going forward will need to specify whether it is to address issues resulting from the current code, or to provide recommendations that may change the underlying philosophy and intent provided by council for the marijuana code.

NEXT STEPS

Staff will set two MAP meetings with the facilitator in 2018 to address the three issues identified by council:

- Consider the recommendation(s) from staff and marijuana businesses regarding the requirement for all marijuana businesses to offset their electricity consumed and whether the requirements should be removed for retail marijuana or manufacturer-infused producers.
- Identify any local law changes necessitated from 2018 changes to state law or regulations.
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The agendas for the meetings will provide sufficient information so that members can determine how the proposed issue will affect the interests a member is representing. Prior to the MAP meetings, staff for the Energy Offset Fund will meet with marijuana businesses to come up with consensus recommendations for the MAP, and information about the expenditure of the marijuana excise tax funds and report updates from the group(s) awarded the funds will be provided to the MAP.

The MAP's work will be complete after the conclusion of the 2018 meetings. In 2019, council will determine if it wants to continue to appoint an advisory commission on marijuana issues.

Boulder Substance Education and Awareness (SEA) Program Year 1 Evaluation Report

Submitted To: Kammi Siemens, City of Boulder

December 2017



Boulder Substance Education and Awareness (SEA) Program Year 1 Evaluation Report

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Substance Education and Awareness Program Annual Report

The Substance Education and Awareness Program¹

In November 2013, City of Boulder voters approved Ordinance 7916, which authorized the city to impose an excise tax of up to ten percent and a sales and use tax of up to ten percent on recreational marijuana sales to offset some of the indirect costs of recreational marijuana.

In June 2016, the City of Boulder launched the Substance Education and Awareness (SEA) Program, which serves as a community-wide substance abuse prevention education initiative, including recreational marijuana education, for children, youth and families. Funding is used by community agencies (subcontractors) to develop a consistent message for children, youth, families and the City of Boulder community related to the impacts of drug/alcohol use on children and youth. This messaging, along with prevention strategies, is designed to achieve the SEA Program goals of:

1. Widespread community distribution and awareness of information and programs developed;
2. Shift in 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;
3. Prevent/reduce youth abuse of alcohol and recreational drugs including marijuana; and
4. Reduce accidental ingestion of marijuana and other drugs.

The SEA Program funds subcontractors to implement prevention activities that fall into four prevention strategies, as defined by the Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP). The City of Boulder sought to subcontract with agencies within the City implementing evidence-based programs or programs with promising practice for impacting awareness, perceptions of risk, and prevention of substance use and abuse. These agencies and their prevention activities were identified by a competitive Request for Proposal process. The Healthy Futures Coalition (HFC) submitted an

¹ Descriptions of each SEA subcontractor program contained in this section were drawn from text on program websites, in program material, and/or were provided to OMNI by subcontractor contacts.

RFP application with a set of agencies and prevention activities, in which they identified any programs that are evidence-based or a promising practice as follows:

- Sources of Strength is included in SAMHSA's National Registry of Evidence-Based Programs and Practices.
- Teen Outreach Program (model program) and EFFEKT (promising program) are in the Blueprints for Healthy Youth Development list.
- Evidence for the effectiveness of Break the Cycle has been published in peer-reviewed journals.

The SEA Program funded the HFC proposal, including the following subcontractors and services, which are organized below by SAMHSA CSAP strategy.

INFORMATION DISSEMINATION

This strategy provides awareness and knowledge of the nature and extent of substance use, abuse and addiction, and their effects on individuals, families and communities as well as available prevention programs and services. Information Dissemination is characterized by one-way communication from the source to the audience with limited contact between the two.

Boulder County Public Health: Safe Storage Campaign

The Boulder County Public Health Communication and Marketing team provides strategic communication guidance and solutions in partnership with Boulder County Public Health (BCPH) programs and partners to encourage behavior and policy change that inspires a healthy, engaged community. The team researches, designs, develops and implements relevant and culturally competent marketing campaigns using social marketing best practices, media relations, and traditional, digital, and social media channels. With the support of SEA Program funding, the Safe Storage media and educational campaign for adults and retailers is designed to reduce accidental ingestion of all substances (marijuana, alcohol, and prescription drugs) and provide information about the effects of substance use, abuse, and addiction on individuals, families, and communities.

Boulder Valley School District: EFFEKT

The Boulder Valley School District (BVSD) Office of Student Support provides support within the school district to promote coordination among the many efforts that contribute to student and staff health. SEA Program funding supports EFFEKT, a program that seeks to prevent adolescent alcohol use by giving parents the tools to reinforce clear expectations and attitudes towards young people's use of alcohol.

The EFFEKT program consists of three components:

- Encouraging parents to make preventing alcohol use by their children a priority

- Reinforcing to parents that they have a strong influence on their children's attitudes and behaviors
- Giving parents practical advice on how they can positively influence their children's attitudes and behaviors

Information is disseminated to parents of middle school students at the beginning of each semester in large group meetings and by regular communications throughout the year. Families are also regularly provided lists of organized activities taking place in the community that offer adolescents constructive, sober ways to spend their time.

EDUCATION

This strategy involves two-way communication and is distinguished from merely disseminating information by the fact that it is based on an interaction between the educator and the participants. Activities under this strategy aim to affect critical life and social skills, including decision-making, refusal skills and critical analysis (e.g., of media messages).

Boulder Valley School District: Sources of Strength

The BVSD Office of Student Support provides support within the school district to promote coordination among the many efforts that contribute to student and staff health. SEA Program funding supports the evidence-based prevention program, Sources of Strength (SOS). The mission of SOS is to increase help-seeking behaviors and promote connections between peers and caring adults. SOS uses peer leaders to enhance protective factors and leverages the power of peer social networks to change unhealthy norms and culture, ultimately preventing suicide, bullying, and substance abuse. This upstream model strengthens multiple sources of support (protective factors) around young individuals so that when times get hard they have strengths to rely on.

Sources of Strength is being implemented in five BVSD middle schools:

- Centennial Middle School
- Casey Middle School
- Manhattan Middle School for Arts and Academics
- Nevin Platt Middle School
- Southern Hills Middle School

El Centro Amistad: Teen Outreach Program

El Centro Amistad's mission is to integrate and transform the Boulder County community through opportunities and programs for Latinos that promote education, health, and quality of life. SEA Program funding supports implementation of the Teen Outreach Program (TOP) for Latino boys in Boulder. TOP is an evidence-based program that empowers teens with the tools and opportunities needed to build a foundation of healthy behaviors, life skills and a sense of purpose, and avoid risky behaviors that can derail success.

YMCA: Influencer Training

The YMCA Boulder Valley Influencer Program is designed to educate adults who work and interact with youth on how to become an "ask-able" or "safe" person to talk with. The goal of the program is to train adults on how to effectively communicate and interact with youth to have a positive impact on their lives. Specifically, the training focuses on topics including substance abuse, bullying, and parental disputes, and teaches adults to comfortably manage conversations with youth.

Boulder County Public Health: Break the Cycle

SEA Program funding supports Break the Cycle (BTC), an evidence-based intervention designed to prevent initiation of injection drug use in young adults. BTC is based on a peer model where young adults (24 years and under) participate in group and individual sessions surrounding positive health behaviors.

Trained counselors provide group and individual sessions to:

- Provide tools and skills to prevent the modelling of injection behavior in front of peers.
- Develop skills to deny request for initiating others to injection behavior.
- Provide space to empower young adults to support positive health behaviors.

ALTERNATIVE ACTIVITIES

This strategy provides the opportunity to participate in healthy, positive, and constructive activities that exclude substance use. These activities are assumed to offset the attraction to, and/or meet the needs filled by, alcohol and drugs, thereby reducing the likelihood of substance use.

YMCA: Prosocial Activities

The YMCA Boulder Valley Pro-Social Activities Program was created to provide teens with a space for healthy activities as well as the development of leadership skills with adult mentors. The program includes Teen Night Out which is designed to give teens a safe environment in which they can grow and thrive, as an alternative to interacting over cell phones, screens, or engaging in unsafe activities. Teen Night Out includes team-building, ropes courses, game nights and more. It also provides the opportunity for teens to volunteer for Days of Service. Days of Service give teens the chance to become leaders and experience the inspiring feeling of helping others, as well as instill the ideals of volunteerism as teens grow into young adults.

Phoenix Multisport

Phoenix Multisport (Phoenix) fosters a supportive, physically active community for individuals who are recovering from a substance use disorder and those who choose to live sober. Through pursuits such as climbing, hiking, running, strength training, yoga, road/mountain biking, socials

and other activities, Phoenix seeks to help members develop and maintain the emotional strength they need to stay sober.

COMMUNITY-BASED PROCESSES

This strategy aims to enhance the ability of the community to more effectively provide prevention and treatment services for alcohol and drug abuse disorders. Activities in this strategy include organizing, planning, enhancing the efficiency and effectiveness of service implementation, building coalitions and networking.

Boulder County Public Health: TA & SAPST Training

The Boulder County Public Health Community Substance Abuse Prevention (CSAP) Program works to reduce and prevent substance abuse in Boulder County through individual interventions for teens and young adults and community-level education, advocacy, and policy. With SEA Program funding, CSAP provides technical support for subcontractors, assists with project coordination, reinforces consistent messaging across community partners, and offers education and training opportunities for SEA Program subcontractors. The SEA Program supports CSAP's dedication to community-based processes and strategies to strengthen the capacity of the community to engage in effective prevention activities.

Evaluation Overview

In November 2016, the City of Boulder hired OMNI Institute (OMNI) to lead an evaluation of the SEA Program. OMNI is a non-profit, social science agency that provides evaluation research, capacity building, and technical solutions services. In December 2016, OMNI began working in partnership with the SEA Program Steering Committee (represented by the City of Boulder and Healthy Futures Coalition) to develop the structure and design of the evaluation.

The SEA Program Steering Committee helped to guide the development of an evaluation research design and ensure that research questions, methods, and other aspects of the design met the needs of subcontractors as well as the City of Boulder. The evaluation approach undertaken by the SEA Program Steering Committee is highly collaborative and participatory.

EVALUATION GOALS

The overarching goal of the ongoing evaluation is to evaluate the effectiveness of individual and joint efforts of funded subcontractors in addressing the SEA Program goals:

1. Widespread community distribution and awareness of information and programs developed;

2. Shift in 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;
3. Prevent/reduce youth abuse of alcohol and recreational drugs including marijuana; and
4. Reduce accidental ingestion of marijuana and other drugs.

The following evaluation questions are designed to focus the evaluation on the goals listed above. Process evaluation questions center on how the implementation of funded strategies was carried out. Outcome evaluation questions center on measuring the effectiveness of the SEA Program in changing attitudes, beliefs, and behaviors related to substance use.

PROCESS EVALUATION QUESTIONS

1. How many youth received direct services² funded by the SEA Program?
2. How many youth were exposed to the community-wide messaging³ implemented for this grant?
3. How many adults were exposed to the community-wide messaging implemented for this grant?
4. What successes did subcontractors achieve during implementation of SEA strategies?
5. What challenges did subcontractors face during implementation of SEA strategies?
6. What did effective partnerships among subcontractors look like? What was gained?
7. What was learned by working in partnership? Were there challenges to establishing effective partnerships among subcontractors?

OUTCOME EVALUATION QUESTIONS

1. What evidence is there that SEA strategies resulted in increases in adult risk perceptions of youth substance use?
2. What evidence is there that SEA strategies resulted in increases in youth risk perceptions of substance use?
3. What evidence is there that SEA strategies resulted in lower rates of youth substance use or related consequences?

² Direct services refer to programs that are provided to a defined group of participants, such as educational programming or alternative pro-social activities delivered through a SEA subcontractor. All youth who participate in or are influenced through grant-funded programming may be considered recipients of a direct service.

³ Community-wide messaging is distributed to the whole community, for example, through an ad campaign about safe storage of medication in the home. Those who view the ad campaign are considered to have received community-wide messaging, but they are not considered a direct recipient of SEA funded programming.

4. What evidence is there that SEA strategies resulted in lower rates of accidental ingestion of marijuana and other drugs among youth 0-9 years old?
5. What does subcontractor program data suggest about SEA Program effectiveness?
6. What evidence is there of the community impact of SEA strategies?

EVALUATION ACTIVITIES

Cross-site evaluations typically require an initial phase of information gathering to develop an evaluation plan that accommodates individual variations across sites (i.e., subcontractors) while also ensuring a common framework for measuring processes and outcomes. Accordingly, OMNI's activities in Year 1 of the evaluation focused on documentation of funded activities undertaken by subcontractors, measurement already in place by subcontractors, and development of initial evaluation infrastructure to support an ongoing evaluation. In particular, evaluation infrastructure development included a comprehensive SEA Program logic model outlining types of data collected by each participating subcontractor and how subcontractors individual efforts work collaboratively to impact SEA goals (see page 11). OMNI will continue to implement the SEA Program evaluation plan in multiple phases to ensure that evaluation reflects both participation from the City of Boulder and SEA subcontractors and standardized qualities.

To this end, during this first year of the evaluation, efforts have focused on:

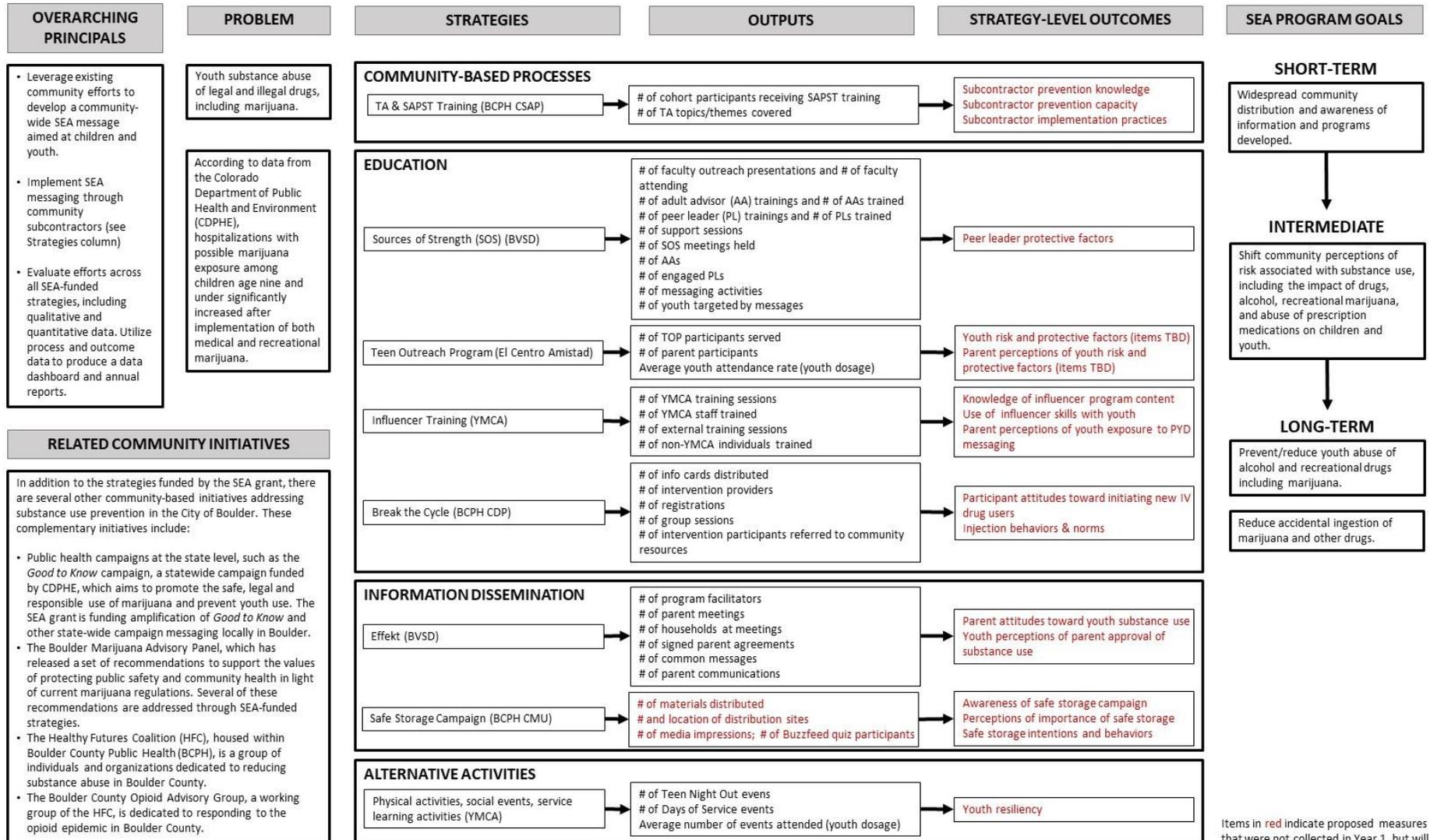
- Identifying common and unique components of subcontractor implementation.
- Developing a comprehensive evaluation plan, including a logic model, for the five-year grant period.
- Identifying indicators to track SEA progress, successes, and challenges.
- Building infrastructure and processes to assess progress on the SEA Program.
- Developing a data collection and display dashboard to track and report on SEA indicators.
- Measuring subcontractor perceptions of collaboration and shared messaging efforts.

The evaluation design is formative; that is, evaluation methods are designed to inform program improvements throughout the implementation process rather than waiting until the program ends to assess effectiveness. Thus, in addition to gathering qualitative and quantitative data to address the impact of the SEA Program on its intended goals, the evaluation will also explore successes and barriers to implementation to provide a contextualized understanding of the findings and to develop feasible and effective recommendations to guide the program.

SEA LOGIC MODEL

City of Boulder Substance Education and Awareness (SEA) Program Logic Model

Last Updated on August 3, 2017



RELATED COMMUNITY INITIATIVES

In addition to the strategies funded by the SEA grant, there are several other community-based initiatives addressing substance use prevention in the City of Boulder. These complementary initiatives include:

- Public health campaigns at the state level, such as the *Good to Know* campaign, a statewide campaign funded by CDPHE, which aims to promote the safe, legal and responsible use of marijuana and prevent youth use. The SEA grant is funding amplification of *Good to Know* and other state-wide campaign messaging locally in Boulder.
- The Boulder Marijuana Advisory Panel, which has released a set of recommendations to support the values of protecting public safety and community health in light of current marijuana regulations. Several of these recommendations are addressed through SEA-funded strategies.
- The Healthy Futures Coalition (HFC), housed within Boulder County Public Health (BCPH), is a group of individuals and organizations dedicated to reducing substance abuse in Boulder County.
- The Boulder County Opioid Advisory Group, a working group of the HFC, is dedicated to responding to the opioid epidemic in Boulder County.

BCPH – Boulder County Public Health
 CSAP – Community Substance Abuse Program
 BVSD – Boulder Valley School District
 CDP – Communicable Disease Program
 CMU – Communications and Marketing Unit
 CDPHE – Colorado Dept. of Public Health & Environment

Items in red indicate proposed measures that were not collected in Year 1, but will be confirmed and added to the evaluation in future years.

EVALUATION METHODS

Data presented in this report were obtained from multiple sources and evaluation methods. With a focus on participatory and formative evaluation techniques involving stakeholders throughout the process, the evaluation employed a multiple-case, non-comparative design with mixed methodology, collecting both quantitative and qualitative data through survey and interview methods. The specific methods are outlined below.

IDENTIFY COMMON COMPONENTS OF SEA PROGRAM IMPLEMENTATION

- Document review. Evaluators reviewed SEA Program agreements, including Healthy Future Coalition's (HFC) proposal to the City of Boulder, to gain an initial understanding of subcontractor activities, implementation plans as they relate to SEA Program goals, and HFC's framework for comprehensive services.
- Initial interviews with all subcontractors. Evaluators interviewed the main contact(s) for each subcontractor to gain an overview of program responsibilities, including SEA Program activities, target population for services, and program implementation timelines. Conversations also included a discussion of evaluation activities to date in which subcontractors described data currently being collected and specific measures administered. Program outcomes and data sharing needs/concerns were also discussed. An interview guide was developed by evaluators and followed for each interview.
- Meeting participation and documentation. Evaluators participated in SEA Program Steering Committee meetings, subcontractor meetings, Healthy Futures Coalition meetings, and regular meetings with the SEA Program Manager to understand and contextualize SEA Program implementation.

CREATE INFRASTRUCTURE TO EVALUATE AND SHARE PROGRESS ON PROGRAM GOALS

- Development of logic model. Evaluators worked with the SEA Program Steering Committee and subcontractors to develop a SEA Program logic model. The logic model outlines process and outcome measures as they relate to the SEA Program goals. The logic model is on page 11.
- Development of evaluation plan. Based on the logic model, Evaluators developed a five-year evaluation plan for the SEA Program that details key evaluation questions and activities designed to address each question. The evaluation plan was delivered to the City of Boulder in February 2017.
- Survey of subcontractor successes & challenges. OMNI developed a custom online survey to document successes and challenges with program implementation. The survey was administered to SEA subcontractors in May 2017 and OMNI shared a summary of findings

with the City of Boulder and subcontractors in June 2017. Findings from the subcontractor survey also inform this annual report.

- Design of data dashboard. Evaluators designed a custom data dashboard application for the collection of process and outcome indicators by subcontractors as well as for the display of data collected by subcontractors. During this year, OMNI completed Phase I of dashboard development to collect and display subcontractor process data indicators. Evaluators trained all subcontractors in use of the data dashboard for data entry, display, and reporting. In future years, OMNI will expand the dashboard to collect and display subcontractor outcome data as well as relevant community-level indicators (e.g., police data, municipal court data, accidental ingestion data, etc.). The SEA dashboard supports data sharing with the public regarding SEA Program goals.

MEASURE PERCEPTIONS OF SHARED MESSAGING AND COLLABORATIVE EFFECTIVENESS

- Survey of subcontractor collaboration. Evaluators developed a custom online survey to surface learnings related to understanding and dissemination of the SEA shared messages as well as collaboration among subcontractors. The survey was administered to SEA subcontractors in May 2017 and OMNI shared a summary of findings with the City of Boulder and subcontractors in June 2017. Findings from the subcontractor survey also inform this annual report. A copy of the survey items is in Appendix A.

EVALUATE SEA PERFORMANCE MEASUREMENT

- Compilation of common outcomes. Evaluators assessed feasibility for collecting common SEA Program outcome measures across subcontractors.
- Development of process & outcome metrics. Evaluators consulted individually with each subcontractor to assist with defining process and outcome metrics relevant to their unique programs and SEA Program outcomes. Process and outcome indicators identified by each subcontractor informed the development of the logic model and the SEA Program dashboard.
- Synthesis of annual performance measures. Evaluators systematically reviewed subcontractor-reported performance information (e.g., numbers served and population demographics) to report on target populations and process indicators.
- Review of available community data sources. Evaluators had initial conversations with several community agencies, including Boulder County Community Justice Services, Boulder County Public Health, and the Boulder Valley School District (regarding Healthy Kids Colorado Survey data). These conversations assessed feasibility for collecting city-level indicators relevant to SEA Program goals that could be publishable on the public-facing SEA dashboard. Evaluators also reviewed data sets from the City of Boulder Police Department and the City of Boulder Municipal Court.

Year 1 Results

Findings from the first year of the SEA Program evaluation are organized into two sections below: partnership efforts and individual subcontractor efforts. Data included in these sections focus on the activities, successes, challenges, and associated process indicators for each subcontractor in Year 1 of SEA Program implementation. Because process measures were established after programming was started, some subcontractors were not able to capture the level of detail for demographics or other process measures that they will be capturing in future years. In addition, at this early stage of the evaluation, outcome data are not available from subcontractors to assess progress towards SEA Program goals.

Efforts in the first year of the SEA Program focused largely on subcontractors establishing processes for implementation and documentation of indicators. As such, the Year 1 annual evaluation report focuses on the individual efforts of each subcontractor. Future annual evaluation reports will not provide such detailed information by subcontractor, but will aggregate data across subcontractors to develop a picture of overall SEA Program implementation.

Year 1 of the SEA Program evaluation was designed to answer five of the seven process questions established in the SEA Program evaluation plan:

1. What did effective partnerships among subcontractors look like? What was gained?
2. What was learned by working in partnership? Where there challenges to establishing effective partnerships among subcontractors?
3. What successes did subcontractors achieve during implementation of SEA strategies?
4. What challenges did subcontractors face during implementation of SEA strategies?
5. How many youth received direct services funded by the SEA Program?

WORKING IN PARTNERSHIP: SUCCESSES & CHALLENGES

Subcontractors are charged with disseminating a consistent message for children, youth, families and the City of Boulder community related to the impacts of drug/alcohol use on children and youth. The SEA Program shared message was developed by Healthy Futures Coalition (HFC). In Year 1 of the program, subcontractors were trained in the shared message through HFC meetings, subcontractor meetings, and ongoing technical assistance provided directly to subcontractors by HFC. Results from the subcontractor survey indicated that subcontractors know and understand the SEA Program shared message, but vary in the degree to which they feel comfortable discussing the message within their organizations and in the community.

Year 1 Successes: Subcontractors reported feeling supported through their work with the City of Boulder, HFC, and OMNI. In particular, subcontractors noted that partnership with HFC was

important to their success, as the coalition provided opportunities to share program information and cross-promote with other organizations. Subcontractors also reported an increase in their ability to provide community outreach as a result of the SEA Program. Individual subcontractor program successes are discussed in the next section.

Year 1 Challenges: Two subcontractors were unable to complete Year 1 in the SEA program (Alternatives for Youth and Phoenix Multisport; discussed individually below) due to challenges with SEA program priorities, timelines, and recruitment/program attendance. Collaborative initiatives across programs require alignment and shared expectations among subcontractors is key for successful collaboration. Subcontractors reported that funding delays and understanding expectations of participation in the SEA Program were challenges with program implementation. Individual subcontractor program challenges are discussed in the next section.

Year 1 Partnerships: Some subcontractors developed partnerships with other subcontractors, including a planned shared training between two organizations. Other subcontractors have yet to partner directly with other subcontractors. Quarterly meetings were critical for subcontractors in coming together to identify, discuss, and form meaningful partnerships with one another. With support from HFC, subcontractors are beginning to formalize partnerships. Subcontractors noted that continued partnerships among subcontractors will be a key factor in the success of the SEA Program in future years.

Year 1 Process Indicators: Across all subcontractors, in Year 1 of the SEA Program 350 people received direct services. The demographic breakdown of people served through the SEA Program is in the table below.

Age	Count	%
0 - 4	0	0%
5 - 11	4	1%
12 - 14	172	49%
15 - 17	44	13%
18 - 20	5	1%
21 - 24	9	3%
25+	0	0%
Age not Known	116	33%
Gender	Count	%
Male	103	29%
Female	70	20%
Transgender	2	1%
Other or Unknown	175	50%

Race	Count	%
American Indian/Alaskan Native	2	1%
Asian	0	0%
Black/African American	3	1%
Native Hawaiian or other Pacific Islander	0	0%
White	46	13%
Multiracial	12	3%
Other or Unknown	287	82%
Ethnicity	Count	%
Hispanic or Latino/a	102	29%
Non-Hispanic and non-Latino/a	32	9%
Ethnicity not Known	216	62%

SUBCONTRACTOR FINDINGS BY CSAP STRATEGY

SEA subcontractors were funded to implement prevention activities that fall into four prevention strategies, as defined by the Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP). SEA subcontractors are funded in the following prevention strategies:

- Information Dissemination: Activities or materials to provide awareness and knowledge of substance use, abuse and addiction, as well as available prevention programs and services
- Education: Education activities aimed to affect critical life and social skills that promote healthy decisions and behavior
- Alternative Activities: Healthy, positive and substance-free activities designed to meet the needs filled by alcohol and drugs
- Community-Based Processes: Organizing and planning activities or coalition work aimed at enhancing the efficiency and effectiveness of prevention service implementation

Results presented below on individual subcontractor efforts focus on successes, challenges, and process indicator data collected in Year 1 of the evaluation. Data presented in this section are derived from subcontractor self-report through the annual Subcontractor Survey, as well as from ongoing evaluation technical assistance conversations with OMNI evaluators.

Information Dissemination

BOULDER COUNTY PUBLIC HEALTH: SAFE STORAGE CAMPAIGN

With the support of SEA Program funding, the Safe Storage media and educational campaign for adults and retailers is designed to reduce accidental ingestion of all substances (marijuana, alcohol, and prescription drugs) and provide information about the effects of substance use, abuse, and addiction on individuals, families, and communities.

Year 1 Successes: In the first year of the SEA Program, the Communication and Marketing team collected in-depth information on parents' sense of self-efficacy and perception of risk related to safely storing prescription drugs, alcohol, and marijuana by holding focus groups with parents who live in the City of Boulder. This qualitative effort provided data specific to Latino parents in addition to general population data. Focus group findings informed development of a Safe Storage campaign strategy, that was deployed in fall 2017.

Year 1 Challenges: As the Communication and Marketing team developed a campaign strategy and determined all materials that would be included, some adjustments were made to accommodate the limited funding available for this campaign. These adjustments included limiting the number of dissemination channels, condensing dissemination to the "back to school"

time frame in early fall, and deferring the creation of a Spanish version of the web page until other funding can be identified.

Year 1 Summary: Process measures were not tracked for the Safe Storage Campaign in the first year of the SEA Program. A summary of the focus group process and findings, as well as steps taken during Year 1, are included below:

The Safe Storage campaign has demonstrated through focus groups that parents want to have good, close relationships with children and communicate their values within that context. Safe Storage builds on that knowledge and provides a skill for parents who care about kids and their health. The Safe Storage Campaign addresses concerns about access to substances and teaches parents, through SEA shared messaging about adult influencers, how to talk early and often about substances, and the importance of keeping them away from youth. The campaign was designed based on input from parents of young children living in Boulder. It aims to:

- Help parents understand the importance of safely storing alcohol, marijuana, and prescription drugs out of reach of their children by sharing local and state-level data.
- Arm parents with tips for storing and disposing of their substances safely, and to have conversations about substances with their children, as well as family and friends.
- Give parents opportunities to test their knowledge through an online quiz, and share what they've learned with their networks through social media.

The Safe Storage Campaign began with research, planning, and review of all related campaigns nationally and internationally to generate a suite of messages that expanded the focus group materials. A comprehensive focus group report enabled Boulder County Public Health (BCPH) to develop a health communication approach that integrated substances, took a positive skills approach, and created a campaign that felt relevant and potentially well received by our community. A safe storage message was developed and an online quiz was created. Additionally, an online poll was developed to parallel the broader campaign. A state and local data review was completed via BCPH Health Planning and Evaluation. Suitability for the inclusion of this data within the messaging campaign was determined by BCPH Communications Manager in consultation with Community Substance Abuse Prevention Coordinator. Advertising channels were identified with social media targeted to demographics of parents and caregivers of young children who live or work in the City of Boulder. A web service implemented the poll and content was finalized. All content was translated to Spanish and a Spanish language quiz is available with a full build-out of materials currently in development. Community-wide distribution planning began with focus on dissemination of Safe Storage messaging in schools and the broader community.

BOULDER VALLEY SCHOOL DISTRICT: EFFEKT

SEA Program funding supports EFFEKT – as part of the Boulder Valley School District (BVSD) Office of Student Support – a program that seeks to prevent adolescent alcohol use by giving parents the tools to reinforce clear expectations and attitudes towards young people's use of alcohol.

Year 1 Successes: The EFFEKT Program was adopted by BVSD, who connected with the program developer in Spring 2017 to discuss implementation practices and evaluation methods. Program implementation is planned for Fall 2018. In September 2017, BVSD participated in a two-day training with the EFFEKT program developer and learned how to present the program to parents. Trained presenters will roll out the program to participating middle schools, where they will share program goals and discuss ways to communicate zero-tolerance messages about alcohol use with their children.

Year 1 Challenges: The EFFEKT Program was originally proposed for and awarded to the organization Alternatives for Youth (AFY), but this organization was unable to implement programming in Year 1 due to delayed funding and conflicting timelines. While several BVSD middle schools expressed interest in EFFEKT, AFY was unable to coordinate with schools early enough in the summer to obtain approval from administrators and roll out programming in Fall 2016 (Year 1). In addition, AFY underwent internal changes including relocation to Northglenn and reprioritization of programming, which ultimately left the organization unable to continue involvement in the SEA Program.

Year 1 Process Indicators: In Year 1 of the SEA Program the EFFEKT process measures were not tracked because EFFEKT was in planning stages with BVSD. Planning involved developing a contract with the EFFEKT developer, determining dates for training, and identifying participating schools. Training was scheduled and completed in September 2017.

Education

BOULDER VALLEY SCHOOL DISTRICT: SOURCES OF STRENGTH

SEA Program funding supports the evidence-based prevention program, Sources of Strength (SOS), as part of the Boulder Valley School District (BVSD) Office of Student Support. The mission of SOS is to increase help-seeking behaviors and promote connections between peers and caring adults

Year 1 Successes: Sources of Strength was successfully implemented in all five of the identified BVSD schools in 2017. This included recruitment and training of adult advisors and peer leaders at each school, conducting regular peer leader meetings throughout the year, and the development and dissemination of positive messages unique to each school. In Spring 2017, BVSD consulted with the University of Rochester, who developed the evidence-based evaluation of the SOS program. With the help of the OMNI evaluation team, BVSD is planning to implement a pre-post outcome measure with peer leaders in Year 2. In addition, BVSD held an end of year meeting with adult advisors to learn about needs at each school, and to build on successes and learnings during Year 2 of programming.

Year 1 Challenges: SOS is an evidence-based program for suicide prevention, but has yet to be validated as an evidence-based program specifically for substance use prevention. To address this challenge, in 2018 BVSD plans to tailor the traditional SOS approach to the SEA Program by instructing each school to develop at least one message each year related to substance use and assess risk and protective factors related to substance use in their peer leader survey.

Year 1 Process Indicators: In Year 1 of the SEA Program the Sources of Strength program served 100 people. The demographic breakdown of youth served and indicators for Sources of Strength programming are in the tables below.

Age	Count	%
0 - 4	0	0%
5 - 11	0	0%
12 - 14	100	100%
15 - 17	0	0%
18 - 20	0	0%
21 - 24	0	0%
25+	0	0%
Age not Known	0	0%
Gender	Count	%
Male	0	0%
Female	0	0%
Transgender	0	0%
Other or Unknown	100	100%

Race	Count	%
American Indian/Alaskan Native	0	0%
Asian	0	0%
Black/African American	0	0%
Native Hawaiian or other Pacific Islander	0	0%
White	0	0%
Multiracial	0	0%
Other or Unknown	100	100%
Ethnicity	Count	%
Hispanic or Latino/a	0	0%
Non-Hispanic and non-Latino/a	0	0%
Ethnicity not Known	100	100%

Other Indicators	Details	Count
Number of faculty outreach presentations	The total number of SOS informational presentations to faculty.	5
Number of faculty attending outreach presentations	The total number of unique faculty members that attended SOS informational presentations.	Not tracked in Year 1
Number of adult advisor trainings	The total number of SOS adult advisor trainings provided.	5
Number of adult advisors trained	The total number of unique adult advisors who attended SOS trainings.	22
Number of peer leader trainings	The total number of SOS peer leader trainings provided.	5
Number of peer leaders trained	The total number of unique peer leaders who attended SOS trainings.	212
Number of support sessions	The total number of SOS support sessions provided to adult advisors and peer leaders	10
Number of SOS meetings held	The total number of SOS meetings held (sum of meetings held at all SOS schools)	12
Number of adult advisors	The total number of unique adult advisors attending SOS meetings (sum of unique adult advisors at all SOS schools)	22
Number of engaged peer leaders (attending at least 50% of meetings)	The number of unique peer leaders who attend at least 50% of sessions. (% may be updated at later date)	Not tracked in Year 1
Number of messaging activities	The total number of messaging activities implemented by SOS schools (sum of messages at all schools)	10
Number of youth targeted by messages	The total number of youth in the target population for messaging activities (sum of school populations)	2,935

EL CENTRO AMISTAD: TEEN OUTREACH PROGRAM

SEA Program funding supports implementation of the Teen Outreach Program (TOP) for Latino boys in Boulder. TOP is an evidence-based program that empowers teens with the tools and opportunities needed to build a foundation of healthy behaviors, life skills and a sense of purpose, and avoid risky behaviors that can derail success.

Year 1 Successes: El Centro Amistad successfully implemented TOP with Latino boys and their parents throughout the 2016-17 school year. Internal evaluations completed by El Centro Amistad showed success in reducing marijuana use among participants in the school years program. El Centro Amistad built on its success during the school year to assemble a summer program serving over 80 participants that is partially funded through the SEA Program.

Year 1 Challenges: El Centro Amistad hopes to expand their efforts in spreading the SEA Program shared messages in future years, now that program staff are more confident in their internal understanding of the message. They also have goals for increased collaboration with other subcontractors and would like to develop more partnership in future years than what they were able to accomplish during Year 1.

Year 1 Process Indicators: In Year 1 of the SEA Program the Teen Outreach Program served 86 people. The demographic breakdown of youth served and other indicators for the Teen Outreach Program are in the tables below.

Age	Count	%
0 - 4	0	0%
5 - 11	0	0%
12 - 14	42	49%
15 - 17	44	51%
18 - 20	0	0%
21 - 24	0	0%
25+	0	0%
Age not Known	0	0%
Gender	Count	%
Male	62	72%
Female	22	26%
Transgender	2	2%
Other or Unknown	0	0%
Race	Count	%
American Indian/Alaskan Native	0	0%
Asian	0	0%
Black/African American	0	0%
Native Hawaiian or other Pacific Islander	0	0%
White	25	29%
Multiracial	0	0%
Other or Unknown	61	71%

Ethnicity	Count	%
Hispanic or Latino/a	86	100%
Non-Hispanic and non-Latino/a	0	0%
Ethnicity not Known	0	0%

Other Indicators	Details	Count
Number of parent participants	The number of parents who attended a parent session	37
Average youth attendance rate	The average percentage of sessions that youth attended.	95%

YMCA: INFLUENCER TRAINING

The YMCA Boulder Valley Influencer Program is designed to educate adults who work and interact with youth on how to become an "ask-able" or "safe" person to talk with.

Year 1 Successes: The YMCA Influencer Program curriculum builds on the SEA Program shared message developed by Healthy Futures Coalition (HFC) by reinforcing the role of adults in the community as positive and approachable role models for youth. The YMCA has begun conducting internal trainings among staff, and presented its first external training to Boulder County staff in May 2017. With the help of OMNI's evaluation team, the YMCA has identified training outcomes (e.g., trainees feel more comfortable discussing sensitive issues with youth; trainees react differently when youth approach them with a problem or concern) that are being assessed before and after trainings.

Year 1 Challenges: Although the program curriculum was developed relatively quickly, trainings did not begin until late Spring 2017 because of delays in hiring a program coordinator. As a result, the number of people served in Year 1 was not as high as initially planned.

Process Indicators: In Year 1 of the SEA Program the YMCA Influencer Program served 51 people. The demographic breakdown of people served and other indicators for the YMCA Influencer Program are in the tables below.

Age	Count	%
0 - 4	0	100%
5 - 11	0	100%
12 - 14	0	100%
15 - 17	0	100%
18 - 20	0	100%
21 - 24	0	100%
25+	0	100%
Age not Known	51	100%
Gender	Count	%
Male	0	100%
Female	0	100%
Transgender	0	100%
Other or Unknown	51	100%
Race	Count	%
American Indian/Alaskan Native	0	100%
Asian	0	100%
Black/African American	0	100%
Native Hawaiian or other Pacific Islander	0	100%
White	0	100%
Multiracial	0	100%
Other or Unknown	51	100%
Ethnicity	Count	%
Hispanic or Latino/a	0	100%
Non-Hispanic and non-Latino/a	0	100%
Ethnicity not Known	51	100%

Other Indicators	Details	Count
Number of YMCA training sessions	The total number of internal influencer trainings provided to YMCA staff.	2
Number of YMCA staff trained	The total number of unique YMCA staff who receive/complete the influencer training.	51
Number of external training sessions	The total number of external influencer trainings provided to other organizations and non-YMCA staff.	0
Number of non-YMCA individuals trained	The total number of unique non-YMCA individuals who receive/complete the influencer training.	0

BOULDER COUNTY PUBLIC HEALTH: BREAK THE CYCLE

Break the Cycle (BTC) is an evidence-based intervention designed to prevent initiation of injection drug use in young adults. BTC is based on a peer model where young adults (24 years and under) participate in group and individual sessions surrounding positive health behaviors.

Year 1 Successes: BTC began program implementation in late October 2016 and developed a set of process and outcome measures that they track. BCPH initiated the process of hiring additional staff, who may be trained as BTC providers, to expand the number of locations where services are offered. BTC is also exploring options for individuals who complete the intervention to grow into a more active leadership role in the program, and act as advisors or role models for new individuals in the program.

Year 1 Challenges: Program recruitment was a challenge early in program implementation, as BCPH was only able to offer the program at one location. BCPH also experimented with offering group sessions that require additional planning and coordination. For the target demographic of this intervention, ensuring attendance at group events was a challenge, and BCPH had more success recruiting walk-ins and providing on-the-spot trainings instead of pre-planned group sessions.

Process Indicators: In Year 1 of the SEA Program the Break the Cycle program served 14 people. The demographic breakdown of young adults served and indicators for Break the Cycle programming are in the tables below.

Age	Count	%
0 - 4	0	0%
5 - 11	0	0%
12 - 14	0	0%
15 - 17	0	0%
18 - 20	5	36%
21 - 24	9	64%
25+	0	0%
Age not Known	0	0%
Gender	Count	%
Male	9	64%
Female	5	36%
Transgender	0	0%
Other or Unknown	0	0%
Race	Count	%
American Indian/Alaskan Native	2	14%
Asian	0	0%
Black/African American	0	0%
Native Hawaiian or other Pacific Islander	0	0%
White	8	57%
Multiracial	1	7%
Other or Unknown	3	21%

Ethnicity	Count	%
Hispanic or Latino/a	1	7%
Non-Hispanic and non-Latino/a	10	71%
Ethnicity not Known	3	21%

Other Indicators	Details	Count
Number of info cards distributed	The total number of BTC informational cards distributed (sum of cards distributed at all locations)	450
Number of intervention providers	The total number of individuals providing the BTC intervention	6
Number of registrations	The total number of online & in-person registrations for the intervention	47
Number of groups sessions	The total number of group intervention sessions provided	35
Number of intervention participants referred to community resources	The total number of attendees who are referred to other community organizations or resources for additional services	14

Alternative Activities

YMCA: PROSOCIAL ACTIVITIES

Supported in part by SEA funding, the YMCA Boulder Valley Pro-Social Activities Program was created to provide teens with a space for healthy activities. Youth develop leadership skills as well as relationships with adult mentors through a variety of activities including Teen Night Out and Days of Service programs.

Year 1 Successes: The popularity of Teen Night Out events grew steadily during spring 2017 events. In early implementations of the program only 4-5 youth attended, but by the end of the program year Teen Night Out events had waitlists for the program with up to 26 youth attending events. There are several opportunities to cross-promote prosocial activities, that may include partnership with SEA subcontractors implementing Sources of Strength, Teen Outreach Program, and EFFEKT. The YMCA is exploring partnerships to promote Teen Night Out events with other SEA subcontractors.

Year 1 Challenges: Initially, program outreach was a challenge, with low attendance at events. The YMCA has been learning what marketing strategies result in increased event attendance, and plans to continue implementing successful strategies to improve outreach in the future.

Process Indicators: In Year 1 of the SEA Program the YMCA Prosocial Activities program served 99 youth. The demographic breakdown of youth served and indicators for Prosocial programming are in the tables below.

Age	Count	%
0 - 4	0	0%
5 - 11	4	4%
12 - 14	30	30%
15 - 17	0	0%
18 - 20	0	0%
21 - 24	0	0%
25+	0	0%
Age not Known	65	66%
Gender	Count	%
Male	32	32%
Female	43	43%
Transgender	0	0%
Other or Unknown	24	24%
Race	Count	%
American Indian/Alaskan Native	0	0%
Asian	0	0%
Black/African American	3	3%
Native Hawaiian or other Pacific Islander	0	0%
White	13	13%
Multiracial	11	11%
Other or Unknown	72	73%

Ethnicity	Count	%
Hispanic or Latino/a	15	15%
Non-Hispanic and non-Latino/a	22	22%
Ethnicity not Known	62	63%

Other Indicators	Details	Count
Number of Teen Night Out Events	The total number of Teen Night Out events held.	8
Number of Days of Service Events	The total number of Days of Service events held.	3
Average number of events attended	The average number of events attended by youth.	3

PHOENIX MULTISPORT

Phoenix Multisport was funded by the SEA Program to expand their program outreach to City of Boulder teens, promoting sober events, healthy lifestyles, and an active community environment. Phoenix Multisport provided multiple events for youth beginning in September 2016; however, there was very low youth attendance at most events. Despite a wide variety of outreach efforts including presentations to high school student councils and announcing events at other programs (Natural Highs, iThrive, TEENS), recruitment remained a challenge particularly because adults are Phoenix Multisport's main client population and including teens in their outreach was a new and expanded effort. Although there were future opportunities to cross-promote events with other SEA Program subcontractors and the Healthy Futures Coalition, Phoenix Multisport ultimately decided to withdraw from their involvement in the SEA Program.

Community-Based Processes

BOULDER COUNTY PUBLIC HEALTH: TA & SAPST TRAINING

With SEA Program funding, Boulder County Public Health Community Substance Abuse Prevention (CSAP) program provides technical support for subcontractors, assists with project coordination, reinforces consistent messaging across community partners, and offers education and training opportunities for SEA Program subcontractors.

Year 1 Successes: In addition to organizing a SAPST class (Substance Abuse Prevention Skills Training) for all SEA Program collaborators during the first year, the CSAP team developed infrastructure to coordinate subcontractor TA, document sharing, and quarterly reporting. The Google Drive developed by the CSAP team has become a hub of resources for all subcontractors and facilitates individualized TA sessions. In addition, the CSAP team developed a YouTube channel for subcontractors as a centralized platform for sharing SEA relevant resources, including a webinar on the SEA shared messages. Finally, the CSAP team facilitated quarterly meetings for all SEA subcontractors and partner organizations, which furthered the SEA Program mission, activities, and evaluation.

Year 1 Challenges: The CSAP team adjusted the content of the subcontractor quarterly reports throughout Year 1 to adapt to changing needs of the SEA Program and the evaluation. The team also experimented with various strategies to maintain regular communication with all subcontractors. In addition, the CSAP team is working to foster more partnerships among subcontractors and is looking to expand subcontractor partnership opportunities in future years.

Process Indicators: Demographic data were not collected for SAPST training participants. Other process indicators for SAPST training are in the table below.

Other Indicators	Details	Count
# of cohort participants receiving SAPST training	The number of participants who completed SAPST training in February/March 2017	8
# of TA topics/themes covered	The total number of TA topics/themes covered in presentations and one-on-one TA sessions.	25

Conclusions & Next Steps

The first year of the SEA Program evaluation was designed to assess how many people received direct services by SEA Program subcontractors, successes and challenges of subcontractor program implementation, and learnings from subcontractor partnerships. Much of the early SEA implementation work was focused on laying the foundation for a strong collaboration among subcontractors and developing infrastructure for tracking progress made toward SEA Program goals over time. In the first year of the evaluation two subcontractors elected to not continue with the program (AFY and Phoenix Multisport) due to capacity issues with program implementation. In addition, several of the subcontractors who will continue with the program made changes to their data collection strategies and processes in order to build enough program capacity to contribute to collective data collection efforts, both through tracking individuals served through programming and beginning to collect demographic data about individuals served. Subcontractors participating in SEA moving forward will need to continue to build and maintain capacity for tracking program indicators and outcomes for SEA to tell the story of program impact.

Results from the evaluation indicate that the SEA Program is making progress toward its first goal of widespread community distribution and awareness of information and programs developed. SEA Subcontractors provided direct services to 350 individuals in the first year of implementation. Subcontractors' work toward learning and disseminating the SEA Program shared message is underway, and subcontractors are beginning to develop partnerships that will strengthen their ability to disseminate the SEA Program shared message in the community. Future years of data collection will allow the City of Boulder to assess the degree to which SEA-funded subcontractors working in collaboration collectively impacts the SEA Program goals.

The SEA Program is a five-year initiative and as such the evaluation will build over time to continue to assess indicators discussed in the current report as well as new indicators as more data become available. Additional indicators will inform the evaluation of the remaining three program goals:

- Shift in 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.

Evaluation questions that will be addressed in future years in addition to those tracked in Year 1 include the following:

FUTURE PROCESS EVALUATION QUESTIONS

1. How many youth were exposed to the community-wide messaging implemented for this grant?
2. How many adults were exposed to the community-wide messaging implemented for this grant?

FUTURE OUTCOME EVALUATION QUESTIONS

1. What evidence is there that SEA strategies resulted in increases in adult risk perceptions of youth substance use?
2. What evidence is there that SEA strategies resulted in increases in youth risk perceptions of substance use?
3. What evidence is there that SEA strategies resulted in lower rates of youth substance use or related consequences?
4. What evidence is there that SEA strategies resulted in lower rates of accidental ingestion of marijuana and other drugs among youth 0-9 years old?
5. What does subcontractor program data suggest about SEA program effectiveness?
6. What evidence is there of the community impact of SEA strategies?

FUTURE EVALUATION ACTIVITIES

To answer future evaluation questions, the following evaluation activities will be carried out in future years of the SEA Program.

SEA Subcontractor Outcome Data Collection: To assess progress towards achievement of SEA Program goals, OMNI will work with SEA subcontractors to define and refine SEA outcome indicators for each program. OMNI will also partner with the SEA Program Manager and subcontractors to generate ideas about common outcome metrics that can be established across subcontractors. SEA outcome indicators will be built into the SEA dashboard and available for analysis and display in future years.

Data Dashboard: In future years of the SEA Program the dashboard will be expanded to collect and display subcontractor outcome data as well as relevant community-level indicators (e.g., police data, municipal court data, accidental ingestion data, etc.).

Parent Survey: To assess the reach of the SEA community-wide impact, OMNI will explore developing and distributing a parent survey through the school system to a sample of parents in the City of Boulder. The survey would evaluate parents' awareness of SEA community-wide messaging; perceptions of risk associated with substance use, including the impact of drugs, alcohol, recreational marijuana, and abuse of prescription medications on children and youth; and safe storage behavior.

Year 2 Subcontractor Survey: As in Year 1 of the program, OMNI plans to administer a survey to subcontractors in future years to continue to assess subcontractor collaboration, the dissemination of the SEA message and successes and challenges with implementation of SEA Program strategies.

Community-Level Measures: In Year 1 of the evaluation, OMNI had initial conversations with several community agencies to assess feasibility for collecting city level indicators that could be published on the public-facing SEA dashboard. In future years, the evaluation aims to gather, analyze and aggregate available community-level data for display on the SEA dashboard.

Year 2 Evaluation Report: The report for Year 2 of the SEA Program evaluation will be designed to aggregate data across subcontractors to develop a comprehensive picture of overall SEA Program implementation. The report will also draw on outcome data provided by subcontractors in addition to process data that builds on the Year 1 evaluation. As such, the Year 2 report will be organized to focus on progress made toward the four SEA Program goals and will focus less on the individual implementation successes and challenges of SEA subcontractors. A proposed outline for the Year 2 annual evaluation report is in Appendix B.

Appendix A. SEA Subcontractor Survey

SEA Annual Substance Education & Awareness Subcontractor Survey

Introduction

The City of Boulder has partnered with OMNI Institute to conduct an evaluation of the SEA program. OMNI has developed this survey to collect annual feedback from SEA subcontractors about your experience with the SEA program. Data collected from the survey will be used for the annual SEA program evaluation. While completing this survey, please reflect on your experiences since joining the SEA program.

We expect this survey will take about 15 minutes to complete, and appreciate your honest and thoughtful feedback! All of your responses will be kept confidential by OMNI. OMNI will be combining your responses with those of all other subcontractors and reporting results together. Thank you for taking the time to complete this survey!

If you have questions about the subcontractor survey or would like to follow up with the evaluation team, please contact Michael Schiel at 303-839-9422 extension 117 or mschiel@omni.org.

SEA Annual Substance Education & Awareness Subcontractor Survey

SEA Shared Messages - Program Level

The first set of questions relate to how the SEA shared messages are being utilized within your organization.

Please rate the degree to which you agree with the following statements.

	Strongly disagree	Disagree	Neither agree or disagree	Agree	Strongly agree
I understand the SEA shared messages.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other people working in my organization understand the SEA shared messages.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

How comfortable do you feel talking about the SEA shared messages with other people in your organization?

- Not at all comfortable
- Slightly comfortable
- Moderately comfortable
- Comfortable
- Very comfortable

How have you integrated the SEA shared messages into the curriculum you are using for SEA-funded activities?

SEA Annual Substance Education & Awareness Subcontractor Survey

SEA Shared Messages - Community Level

The next set of questions relate to how your organization is disseminating the SEA shared messages in the community.

How comfortable do you feel talking about the SEA shared messages with adults in the community you serve?

- Not at all comfortable
- Slightly comfortable
- Moderately comfortable
- Comfortable
- Very comfortable
- Not applicable

How comfortable do you feel talking about the SEA shared messages with children in the community you serve?

- Not at all comfortable
- Slightly comfortable
- Moderately comfortable
- Comfortable
- Very comfortable
- Not applicable

Please describe how your program is using and/or spreading the SEA shared messages (Where do you share them? How often do you share them? Who uses and receives the messaging? Etc.)

SEA Annual Substance Education & Awareness Subcontractor Survey

SEA Program Partnerships

For the next set of questions, please reflect on partnerships your organization has with other SEA subcontractors and members of Healthy Futures Coalition.

In what ways (if any) does your organization partner with other SEA subcontractors? (Examples of partnership may include referring your participants to another SEA-funded subcontractor, sharing resources or data with other subcontractors, or collaborating on events/activities with other SEA subcontractors.

In what ways (if any) have partnerships with other SEA subcontractors been beneficial to your organization?

In what ways (if any) have partnerships with other SEA subcontractors been challenging for your organization?

In what ways (if any) does your organization partner with other Healthy Futures Coalition members (who are not funded by SEA)?

SEA Annual Substance Education & Awareness Subcontractor Survey

SEA Community Impact

When answering the final survey questions, please think about the community-wide impact of the SEA program.

Since joining the SEA program, what about the program do you feel has worked well?

Since joining the SEA program, what about the program has been challenging?

What, if any, benefits to the community have you observed as a direct result of the SEA program?

What changes, if any, would you make to the SEA program?

Appendix B. Proposed SEA Program Year 2 Evaluation Report Outline

- I. The Substance Education and Awareness Program
 - a. Information Dissemination
 - i. Boulder County Public Health: Safe Storage Campaign
 - ii. Boulder Valley School District: EFFEKT
 - b. Education
 - i. Boulder Valley School District: Sources of Strength
 - ii. El Centro Amistad: Teen Outreach Program
 - iii. YMCA: Influencer Training
 - c. Alternative Activities
 - i. YMCA: Prosocial Activities
 - d. Community-Based Processes
 - i. Boulder County Public Health: TA & SAPST Training
- II. Evaluation Overview
 - a. Evaluation Goals
 - b. Process Evaluation Questions
 - c. Outcome Evaluation Questions
 - d. Evaluation Activities
 - e. Evaluation Methods
- III. Year 2 Results
 - a. Evidence of widespread community distribution and awareness of information and programs developed
 - b. Evidence of shift in 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
 - c. Evidence of prevention/reduction of youth abuse of alcohol and recreational drugs including marijuana
 - d. Evidence of reduction of accidental ingestion of marijuana and other drugs
- IV. Working in Partnership: Successes & Challenges
- V. Conclusions & Next Steps
- VI. Future Evaluation Activities



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 6, 2019

AGENDA TITLE

Introduction, first reading and consideration of a motion to order published by title only, Ordinance 8338 amending Chapter 2-3, by adding a new Section 2-3-25, "Marijuana Licensing Authority," B.R.C. 1981, and; Ordinance 8345 amending Sections 6-14-3(e), "License Required," and 6-16-3(e), "License Required," B.R.C. 1981, creating an option to transfer a marijuana license, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Sandra Llanes, Deputy City Attorney
Kathleen Haddock, Senior Counsel
Mishawn Cook, Licensing Manager

EXECUTIVE SUMMARY

On May 21, 2018, city council directed staff to bring forward an ordinance with input from the Marijuana Advisory Panel to create a marijuana licensing authority; evaluate the marijuana penalty schedule for potential changes; and study whether violations should or should not carry over in marijuana license transfers. The purpose of this agenda item is to introduce on first reading a proposed ordinance that would create a marijuana licensing authority (**Attachment A**) and a second proposed ordinance that would allow transfers when the transaction is an arms-length third party sale with 100% change in ownership and management (**Attachment B**).

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only Ordinance 8338 amending Chapter 2-3, by adding a new Section 2-3-25, "Marijuana Licensing Authority," B.R.C. 1981, pertaining to the composition, duties and powers of a new city board related to marijuana issues; and Ordinance 8345 amending Sections 6-14-3(e), "License Required," and 6-16-3(e), "License Required," B.R.C. 1981, creating an option to transfer a marijuana license if the purchase is an arms-length with a third party, resulting in a one hundred percent change in ownership and management, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The marijuana industry is a part of the city’s economy. The proposed changes are intended to support a vital and well-regulated marijuana industry in Boulder.
- Environmental – None anticipated.
- Social – Social impacts of recreational marijuana use are a matter of dispute. The proposed ordinances will continue the city’s practice of supporting a well-regulated marijuana industry.

OTHER IMPACTS

- Fiscal - The formation of a new board will require additional staff resources and costs. Currently, the city code is structured so that marijuana licensing fees paid by marijuana businesses are set to cover all of the costs of licensing. Creating a board will require either increasing marijuana application fees, subsidization from the general fund of marijuana licensing, or relying on marijuana tax revenue.
- Staff times - Additional staff will be necessary to support the board and ongoing marijuana regulation changes. Depending on the authority provided to the board, the City Attorney’s Office may need an additional FTE to support the board and handle any other marijuana related matters. Licensing staff may need one additional FTE, with a second FTE possibly needed, depending on the additional work necessary for responsibilities of the board. Some additional non personnel expense may be necessary to outsource specialty research and/or forensic application review if such expertise cannot be found in house. While some of the work related to consideration of policy matters is included in existing work plans, extensive policy analysis and actions on individual licenses is not included in any existing work plans. The level of staff work required will depend upon the nature

and extent of the authority with which council provides the board. A board with quasi-judicial authority to issue licenses and regulate businesses would require more staff support than a board that has only advisory authority.

BOARD AND COMMISSION FEEDBACK

The Marijuana Advisory Panel (MAP) met on June 26, 2019, to discuss the formation of a Marijuana Licensing Authority, evaluate and propose changes to the Marijuana Penalty Schedule and address the question of whether violations should or should not carry over in license transfers.

BACKGROUND

On May 21, 2019, council asked MAP to provide a recommendation as to whether the new marijuana board should include enforcement responsibilities along with licensing duties; to evaluate and propose potential changes to the Marijuana Penalty Schedule, and address the question of whether violations should/should not carry over in license transfers.

ANALYSIS

Following is a summary of each issue addressed by MAP. *See Attachment C*, MAP Structural Outline, May 14, 2019.

Formation of a Marijuana Licensing Authority

MAP recommends that council create a Marijuana Licensing Authority (MLA). MAP's previous recommendation provided to council on May 21, 2019, remains the same with the exception of enforcement duties. The term "enforcement," as used in this memorandum, means the administration of violations and imposition of penalties on marijuana licenses. MAP recommends that the structure remain the same in that the Authority's duties would include policy and licensing but not include enforcement duties. The MAP recommends leaving enforcement responsibilities to be determined by the city manager .

Recommended Structure

The MAP recommends that the new board be both a policy and licensing board like the Beverage Licensing Authority ("BLA"). However, the BLA, which functions in a more settled regulatory environment, is roughly 80% licensing and 20% policy; the new board would likely be 80% policy and 20% licensing. Initially, however, the MAP recommends that the new board be limited to an advisory role. The licensing duties should be phased in over time. The MAP recommends that the phase in period be no less than six months and no longer than two years; the timing of the phasing to be determined by the new board. The phasing period is intended to provide the board with an opportunity to address time-sensitive recommendations regarding policy and potential code changes and to ramp up on the quasi-judicial nature of its licensing role.

Recommended Board Mission/Charter

To promote the Boulder community's interests and values in the local regulation of marijuana, while considering the downstream consequences of such regulations on the community and on public health and safety, while supporting economic development and congruence between local ordinances and state laws.

Advisory

In its policy capacity, MAP recommends the new board address:

- Remaining topics from MAP's work including Title 9, state legislative issues and items listed in a letter to council from MAP dated December 18, 2017, for consideration at their January 2018 retreat (**Attachment D**).
- Questions of jurisdictional parity.
- Topics initiated by council, MLA itself, city staff, and topics initiated by community members.

Licensing

MAP recommends the board begin as a board focused purely on policy and will phase in its licensing duties after no less than six months and no longer than two years. Like the BLA, the marijuana board will establish guidelines for determining what type of license matters will come before the board and which will be handled administratively by licensing staff. The board will determine the timing and scope of its licensing duties during this transition phase. All licensing duties will continue to be handled by city staff until the board determines otherwise.

Licensing Duties include:

- New applications.
- Renewals.
- Transfers.

Board Members

MAP recommends seven members who are at least 21 years of age or older with the potential appointment of ex officio members at council's discretion. The ex-officio positions are intended for non-residents from the candidate pool, who would otherwise qualify under one of the recommended qualifications but are prohibited from being on a city board because of the resident status requirement.

It is recommended (but not required) that board members be selected from a pool of candidates with some of the following qualifications:

- Representation of the community at large.
- Diversity.
- Reflection of community values.
- Involvement in the education community.
- Involvement in the public/mental health communities.
- Involvement in the marijuana business.

- Knowledge of marijuana laws and regulations.
- Involvement in the business community (other than marijuana business).

Staff recommends that the council consider the number of industry representatives on the new board. While such individuals can certainly contribute to the dialog, on a board with quasi-judicial powers, they can have an inherent conflict of interest. BLA generally has only one or two industry representatives on a board made up of five members.

Enforcement

All enforcement duties related to violations and penalty phase will continue to be administered by city staff. This function will not become a function of the new board unless otherwise determined by council by ordinance. Council had previously requested research regarding how other jurisdictions structure licensing and enforcement duties. That research is included with this memorandum as **Attachment E**.

Marijuana Penalty Schedule

MAP and city staff discussed potential changes to the Marijuana Penalty Schedule and created a new penalty schedule that will be implemented by city manager rule which is **Attachment F**.

The BLA penalty schedule was used as a guide in making changes. In summary, violations were grouped as either egregious or non-egregious. Egregious violations typically involve major health and safety issues while non-egregious violations typically involve operational issues. The new penalty schedule removes revocation from the chart, however it is understood that revocation is always an available option in particularly egregious situations. The former penalty schedule was comprised of mostly fines whereas the new penalty schedule is guided by suspensions days and days in abeyance for retail establishments. Suspension mean that a business must close and is not able to sell its product. In addition, it is required to post a sign that says it violated the law and as a result, is closed. This is the same process as the BLA penalty schedule.

The penalty for MIPs and grows are fines and not suspensions because a suspension (closure to the public) would have no effect on the business.

Violations dropping off or carrying over in license transfers

MAP and city staff had a robust discussion regarding whether violations should or should not carry over in license transfers. A summary of that June 26, 2019 discussion is included with this memorandum as **Attachment G**.

The MAP's recommendation is as follows:

- Violations will no longer be considered in the assessment of penalties five years after a final decision on the enforcement penalty , as is the case for liquor.
- Provide an option for applicants who want to transfer their license but also want violations to be dropped off from their license when transferred. This option would be available for an additional fee to cover the third party investigation cost necessary to verify that the applicant meets the city's criteria which would

require: (a) 100% ownership change in an arms-length third party transaction; (b) evidence of an adequate change in management and daily operational oversight of the licensed business; and (c) evidence of rehabilitation so that further violations do not occur. Businesses transferring licenses that want violations to drop off would pay the city for a third party investigation to determine the validity of their transfer based on an average of the overall costs of those investigations. The applicant would have to pay for the investigation regardless of whether the transfer application was approved or not. Depending on the results of the investigation, violations could be wiped clean from a transferred license (if they meet the criteria described above), or a transfer could be approved without removing violations, or the transfer application could be rejected altogether. Those transferring licenses without violations or who do not want to pay for an investigation to clear their licenses of violations, would be exempt from the fee.

ATTACHMENTS

- Attachment A – Proposed Ordinance 8338 (Creation of MLA)
- Attachment B – Proposed Ordinance 8345 (Regarding License Transfers)
- Attachment C – MAP Structural Outline for MLA, May 14, 2019
- Attachment D – MAP letter to Council dated December 18, 2017
- Attachment E – Research on licensing and enforcement
- Attachment F – Potential and/or new changes to the Marijuana Penalty Schedule
- Attachment G – MAP June 26, 2019 Meeting Summary

ORDINANCE 8338

AN ORDINANCE AMENDING CHAPTER 2-3, BY ADDING A NEW SECTION 2-3-25, "MARIJUANA LICENSING AUTHORITY," B.R.C. 1981, PERTAINING TO THE COMPOSITION, DUTIES AND POWERS OF A NEW CITY BOARD RELATED TO MARIJUANA ISSUES, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A new Section 2-3-25, "Marijuana Licensing Authority," B.R.C. 1981, is added as follows:

2-3-25. - Marijuana Licensing Authority.

- (a) The City of Boulder Marijuana Licensing Authority shall consist of seven members who are at least twenty-one years of age, all of whom are city residents, appointed by City Council for five-year terms. At the time of appointment, two members will be marijuana business owners or representatives of such owners and two members shall have a connection to the health or education field. The remaining members shall be at large. Up to two ex officio non-voting members may be appointed by the city manager as provided below. The board members who are first appointed shall be designated to serve for staggered terms so that the term of one board member expires each year.
- (b) City Council has discretion to appoint two non-voting ex officio members who will advise the Authority. These positions are intended for non-city residents from the candidate pool, who would otherwise qualify but are prohibited from appointment because of the resident status requirement.
- (c) The city manager serves as secretary to the board. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.
- (d) Four members shall constitute a quorum. An affirmative vote of a majority of the members present is necessary to authorize any action of the board.
- (e) The Authority shall be responsible for both advisory and licensing duties as set forth in this section. Initially the Authority's duties shall be limited to an advisory role.

1 The licensing duties are to be phased in over time. The phase in period shall be no
2 less than six months and no longer than two years from the date of the Authority's
3 first meeting after formation. The timing of the phasing shall be determined by the
4 Authority. The Authority will establish guidelines for determining what type of
5 license matters will come before the Authority and which will be handled
6 administratively by city staff. The Authority will determine the timing and scope of
7 its licensing duties during this transition phase. All licensing duties will continue to
8 be handled by the city manager until the Authority formally determines otherwise.

6 (f) The Authority shall have the ability to issue subpoenas in quasi-judicial proceedings
7 only.

7 (g) Prior to making any recommendation or taking action, the board shall hold a public
8 hearing.

9 (h) The Authority's advisory functions are:

10 (1) Generally, to promote the Boulder community's interests and values in the local
11 regulation of marijuana, while considering the downstream consequences of such
12 regulations on the community and on public health and safety while supporting
13 economic development and congruence between local ordinances and state laws.

12 (2) To advise the city council and city manager on marijuana issues, strategies, goals
13 and policies;

14 (3) To study and make recommendations to council and the city manager regarding
15 marijuana related issues raised by council, city manager, state legislative changes,
16 the public, or the Authority;

16 (4) To prioritize and continue any outstanding work from the Marijuana Advisory
17 Panel;

17 (5) To address issues related to jurisdictional parity; and

18 (6) To follow the purpose and intent in Chapters 6-14 and 6-16, B.R.C.

19 (i) The Authority's licensing functions may include:

20 (1) To grant or refuse applications for licenses to operate a medical or recreational
21 marijuana business as prescribed by Chapter 6-14, "Medical Marijuana" and
22 Chapter 6-16, "Recreational Marijuana," B.R.C. 1981. The Authority's
23 responsibilities shall not include suspension, revocation, or imposition of fines as
24 set forth in subsections 6-14-14 and 6-16-14 B.R.C. 1981. The city manager shall
25 administer such matters;

24 (2) To perform licensing functions in a manner necessary to carry out the legislative
25 purposes and requirements of the state and city marijuana licensing laws; and

1 (3) To perform all other responsibilities that the council may delegate to it.

2 (j) The city manager shall issue all licenses granted by the authority upon receipt of the
3 completed application and the operating fee, criminal background fee, annual license
4 fee, and any other applicable fees, as required by Section 4-20-64 "Medical
5 Marijuana Businesses" and 4-20-67 "Recreational Marijuana Businesses," B.R.C.
6 1981, and meeting the requirements of 6-14-5(f) "Approval Requirements" or 6-16-
7 6(f) "Approval Requirements" B.R.C. 1981.

8 (k) The board shall not perform any administrative functions unless expressly provided in
9 this code.

10 (l) The board shall not involve itself in any review under the land use regulations, Title
11 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council
12 or the planning board.

13 (m) Prior to making any recommendation, the board shall hold a public hearing.

14 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
15 the residents of the city, and covers matters of local concern.

16 Section 5. The city council deems it appropriate that this ordinance be published by title
17 only and orders that copies of this ordinance be made available in the office of the city clerk for
18 public inspection and acquisition.

19 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
20 TITLE ONLY this 6th day of August, 2019.

21 _____
22 Suzanne Jones, Mayor

23 Attest:

24 _____
25 Lynnette Beck, City Clerk

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READ ON SECOND READING, PASSED AND ADOPTED this 20th day of August,
2019.

Suzanne Jones, Mayor

Attest:

Lynnette Beck, City Clerk

ORDINANCE 8345

AN ORDINANCE AMENDING SECTIONS 6-14-3(e), "LICENSE REQUIRED," AND 6-16-3(e), "LICENSE REQUIRED," B.R.C. 1981, PERTAINING TO THE TRANSFERABILITY OF LICENSES TO TRANSFEREE WITHOUT A VIOLATION HISTORY IF THE TRANSACTION IS AN ARMS-LENGTH THIRD PARTY TRANSACTION WITH A ONE HUNDRED PERCENT CHANGE IN OWNERSHIP AND MANAGEMENT, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 6-14-3(e), "License Required," B.R.C. 1981, is amended as follows:

6-14-3. - License Required.

...

(e) License Nontransferable; Exceptions. A medical marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premise, to a different type of business, or to a different owner or licensee. A medical marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed medical marijuana business shall be permitted in the following circumstance:

- (1) The new owner and all licensees of the business have submitted completed applications and passed a background check by the city;
- (2) The new owner is not making changes to any of the plans or conditions that are part of the license; and
- (3) One of the following:
 - (A) The license transfer location is permitted without the exception of Subsection 6-14-7(c) of this chapter; or
 - (B) The license transfer is an arms-length third party transaction to one hundred percent new owners and managers.

1 Section 2. Section 6-16-3(e), “License Required,” B.R.C. 1981, is amended as follows:

2 **6-16-3. - License Required.**

3 ...

4 (e) License Nontransferable; Exceptions. A recreational marijuana business license is not
5 transferable or assignable, including, without limitation, not transferable or assignable to
6 a different premise, to a different type of business (including another marijuana business),
7 or to a different owner or licensee. A recreational marijuana business license is valid only
8 for the owner named thereon, the type of business disclosed on the application for the
 license, and the location for which the license is issued. The licensees of a recreational
 marijuana business license are only those persons disclosed in the application or
 subsequently disclosed to the city in accordance with this chapter. A transfer of a licensed
 recreational marijuana business shall be permitted in the following circumstance:

- 9 (1) The new owner and all licensees of the business have submitted completed
10 applications and passed a background check by the city;
- 11 (2) The new owner is not making changes to any of the plans or conditions that are part
 of the license; and
- 12 (3) One of the following:
- 13 (A) The license transfer location is permitted without the exception of Subsection 6-
 16-7(c) of this chapter; or
- 14 (B) The license transfer is an arms-length third party transaction to one hundred
15 percent new owners and managers.

16 ...

17 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
18 the residents of the city, and covers matters of local concern.

19 Section 4. The city council deems it appropriate that this ordinance be published by title
20 only and orders that copies of this ordinance be made available in the office of the city clerk for
21 public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 6th day of August, 2019.

Suzanne Jones, Mayor

Attest:

Lynnette Beck, City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 20th day of August,
2019.

Suzanne Jones, Mayor

Attest:

Lynnette Beck, City Clerk

**Marijuana Advisory Board (MAB) Structural Outline
May 14, 2019**

1. MAB will be a hybrid policy and licensing board.
Broad Mission: To promote the Boulder community's interests and values in the local regulation of marijuana, while considering the downstream consequences of such regulations on the community and on public health and safety and while supporting economic development and congruence between local ordinances and state laws.
 - In its policy capacity, MAB will address:
 - Remaining topics from MAP's work including Title 9 and state legislative issues;
 - Questions of jurisdictional parity for businesses;
 - Topics initiated by council, MAB itself, or city staff
 - Licensing: MAB will begin as a board focused purely on policy and will phase in its licensing duties after no less than six months and no longer than two years. Similar to the Beverage Licensing Authority (BLA) the licensing duties will include some applications and license deliberations but not all as determined by guidelines set by board. MAB will determine the precise scope of its licensing duties during this transition phase. All licensing duties will continue to be handled by city staff until MAB determines otherwise.
2. MAB will have seven resident members who are at least 21 years of age and will also allow the participation of ex officio members so that non-residents who meet other recommended qualifications that are otherwise lacking in the candidate pool can participate on MAB.
3. It is recommended (but not required) that MAB members be drawn from a pool of candidates with some of the following qualifications:
 - Involvement in the marijuana business
 - Knowledge of marijuana laws and regulations
 - Involvement in the business community other than marijuana business
 - Involvement in the education community
 - Involvement in the public/mental health communities
 - Representation of the community at large
 - Diversity
 - Reflection of community values

December 18, 2107

Dear City Council,

Thank you for your continued support in responsibly regulating the marijuana industry. In this regard, the Marijuana Advisory Panel (MAP) would like to take this opportunity to share with you a couple of our thoughts and experiences from the past year.

Prioritization of Marijuana-Related Tasks in the 2018 Staff Work Plan

As many of you are aware, MAP members gave significant time to fully tackle City Council's charge of improving the City's code in a rapidly changing industry with evolving regulatory needs. At the end of the Panel's 2016 process we presented 44 consensus-based recommendations for protecting the interests and lives of a multitude of stakeholders. Many of these items were addressed by Council, and we thank you for being responsive and supportive of our recommendations. However, more work remains. Some of our recommendations require changes to Title 9 and could not be addressed within MAP's 2016 scope of work. We understand that Title 9 changes mean Council must find room in the annual work plan to accomplish these tasks, which takes place at the annual retreat. As a Panel, we unanimously recommend that Council prioritize these Title 9 recommendations in 2018.

Community Safety

Boulder has a serious youth drug and alcohol problem. As the marijuana industry continues to evolve, it is imperative that industry, the community, and the City have a plan for ensuring public health. There needs to be a productive space for the necessary stakeholders to come together to discuss vital and timely issues such as parent education and prevention messaging. MAP's scope in 2016 and 2017 was focused solely on updating the existing City code. However, it is challenging to truly address the intersection of industry and public health with such a narrow focus. We agree that it is time for MAP to discuss this issue holistically in 2018 – with industry, public health officials, and community members. With this in mind, we recommend to City Council that MAP be encouraged to discuss this in 2018 with the addition of more community voices and perspectives.

Remaining Items to Discuss in 2018 and Beyond

While evaluating and discussing the myriad of issues pertaining to the city of Boulder's marijuana code we found other topics worthy of discussion, particularly education and underage diversion. Boulder County Public Health, Boulder Valley School, District, and University of Colorado at Boulder have thorough but separate strategies in place to mitigate the impacts of legal marijuana use on minors, but we believe that the community-at-large would benefit from a City-led effort. In addition to education and underage diversion, we identified the following issues as ripe for community discussion, but outside the current scope or capacity of MAP and supporting staff:

- Major and minor modifications
- Incidental sponsorship (charity versus adult events)
- Promotional items
- Educational materials prepared by licensees
- Logos on on-premises signs
- Penny joints
- Social clubs
- Community message
- Community outreach
- Carbon offsets

MAP members want to express their understanding for your very full workloads, the simply overwhelming amount of important community items your face as a Council, and the limited time in which you have to work on them and choose priorities. In addition, we want to express to you how hard we worked, together as citizens, educators, protectors of youth and community, city staff, and industry to reach cohesive and comprehensive recommendations. These diverse perspectives shaped the consensus-based recommendations that we submit to you today.

Humbly and respectfully,

Marijuana Advisory Panel

Leisha Connors-Bauer, University of Colorado at Boulder
Heath Harmon, Boulder County Public Health Administration
Travis Howard, Green Dream Cannabis
Keenan Jones, Hoban Law Group
Will Lukela, Marijuana Enforcement Division, Colorado Department of Revenue
Alana Malone, Green Dot Labs
Andrea Meneghel, Boulder Chamber
Bill Rigler, Community Representative
Teri Robnett, Cannabis Patients Alliance
Loree Schwartz, Organic Wellness Dispensary
Jane Theodore, Community Representative
Kate Thomson, The Farm
Andy Tucker, Boulder Valley School District *(Stepping down in 2018 due to job change.)*

Liquor Transfer Application Worksheet:

Business Name: _____

Premise Address: _____

License Type: _____

If application is a license transfer, the below questions will determine whether a BLA hearing is required and needs to be later scheduled:

- 1) Is the transfer a transfer by operation of law with a court order? Yes ___ or No ___
- 2) Is the transfer a license transfer to a landlord of the licensed premises? Yes ___ or No ___
- 3) Is there enforcement history for license at transferred premise address in past 5 years? Yes ___ or No ___
- 4) Has City Licensing reviewed the seller's premise diagram in comparison with the buyer's premise diagram and as a result does staff believe that permanent modification will be required? Yes ___ or No ___
- 5) Has a zoning denial or additional review opinion related to local zoning laws been received?
Yes ___ or No ___
- 6) Does any person involved with buyer's business have a background check or prior state liquor violations for other licenses held which should properly trigger a hearing? Yes ___ or No ___
- 7) Has, after poster has been provided and location has been posted for the required 10-day period, any public inquiry or other comment been received? Yes ___ or No ___
- 8) Have, after city staff license application email notice been sent (should be sent at the same time that poster is provided, city staff comments been received back with issues (PD, Fire, ST, Occ. Tax or Other)? Yes ___ or No ___

An answer "yes" to any of the above 8 questions for a license transfer application under review, indicates that a BLA hearing should be scheduled for the application.

MUNICIPALITY (by population size)	LICENSING AUTHORITY		ENFORCEMENT AUTHORITY	
	LIQUOR	MARIJUANA	LIQUOR	MARIJUANA
<p>Denver (716,492)</p> <p>Denver Excise & Licenses Hearing Policies and Procedures (Oct. 22, 2018).</p>	<p>Hearing Officer</p> <p>The Executive Director of the Dept. of Excise & Licenses, or her designee.</p>	<p>Hearing Officer</p> <p>The Executive Director of the Dept. of Excise & Licenses, or her designee.</p>	<p>Hearing Officer</p> <p>The Executive Director of the Dept. of Excise & Licenses, or her designee.</p>	<p>Hearing Officer</p> <p>The Executive Director of the Dept. of Excise & Licenses, or her designee.</p>
<p>Colorado Springs (472,688)</p> <p>Colorado Springs City Code 2.5.104; 2.2.103.</p>	<p>Bifurcated Duties</p> <p>(1) Municipal Judge serves as administrative Hearing Officer;</p> <p>(2) City Clerk reviews and grants/denies all applications, renewals, and transfers.</p>	<p>City Clerk</p> <p>Medical only. Effective May 25, 2017, the City Clerk shall not receive or act upon any new medical license applications.</p>	<p>Bifurcated Duties</p> <p>(1) Municipal Judge serves as administrative Hearing Officer;</p> <p>(2) City Clerk may suspend, revoke, or deny renewal after hearing. (and Municipal Judge may summarily suspend a license in her administrative capacity.)</p>	<p>City Clerk</p> <p>Medical only. If licenses are revoked or surrendered, the cumulative cap on licensed medical marijuana locations shall be reduced accordingly.</p>

<p>Aurora (374,114)</p> <p>Aurora Municipal Code 6-31; 6-304.</p>	<p>Hearing Officer</p> <p>The Finance Director, or her designee.</p>	<p>Hearing Officer</p> <p>The manager of the Aurora Marijuana Enforcement Division, or her designee.</p>	<p>Hearing Officer</p> <p>The Finance Director, or her designee.</p>	<p>Hearing Officer</p> <p>The Finance Director.</p>
<p>Fort Collins (167,830)</p> <p>Fort Collins Municipal Code 3-32; 15-462.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>Hearing Officer</p> <p>A person appointed by the City Manager (referred to as Medical/ Recreational Marijuana Licensing Authority).</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>Hearing Officer</p> <p>A person appointed by the City Manager (referred to as Medical/ Recreational Marijuana Licensing Authority).</p>
<p>Lakewood (156,798)</p> <p>Lakewood Municipal Code 5.38.020; 5.51.120.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council from a list of qualified persons compiled by City Clerk.</p>	<p>City Clerk</p> <p>Medical only.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council from a list of qualified persons compiled by City Clerk.</p>	<p>City Manager</p> <p>Medical only.</p>
<p>Thornton (139,436)</p> <p>Thornton City Code 42-57; 42-70.</p>	<p>Board</p> <p>Nine at-large community members appointed by City Council.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>Board</p> <p>Nine at-large community members appointed by City Council.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>
<p>Arvada (120,492)</p> <p>Arvada Municipal Code 6-62; 53-22; 53-42.</p>	<p>Board</p> <p>Five at-large community members appointed by the City Council. Board members are modestly compensated.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Board</p> <p>Five at-large community members appointed by the City Council. Board members are modestly compensated.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>

<p>Westminster (113,479)</p> <p>Westminster Municipal Code 5-14-2; 2-5-1; 5-10-3.</p>	<p>Board</p> <p>Seven at-large community members (and one alternate) appointed by City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Board</p> <p>Seven at-large community members (and one alternate) appointed by City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Pueblo (111,750)</p> <p>Pueblo Municipal Code 11-3-5; 11-11-202.</p>	<p>Board</p> <p>Five at-large community members appointed by the Mayor, subject to City Council approval.</p>	<p>Board</p> <p>Five at-large community members appointed by the Mayor, subject to City Council approval.</p>	<p>Board</p> <p>Five at-large community members appointed by the Mayor, subject to City Council approval.</p>	<p>Board</p> <p>Five at-large community members appointed by the Mayor, subject to City Council approval.</p>
<p>Centennial (110,831)</p> <p>Centennial Municipal Code 6-4-110; 6-6-110; 6-5-110.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Greeley (107,348)</p> <p>Greeley Municipal Code 6.16.020; 18.46.135; 18.46.137.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Longmont (96,577)</p> <p>Longmont Municipal Code 2.68.020; 6.70.040.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>Board</p> <p>Three-member board including: (1) Municipal Judge, (2) Chief of Public Safety, and (3) Director of Community Services, or their designees.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>

<p>Loveland (77,446)</p> <p>Loveland Municipal Code 8.04.010; 7.60.030; 7.65.020.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Broomfield (69,267)</p> <p>Broomfield Municipal Code 5-28-050; 17-02-090; 17-02-100.</p>	<p>Board</p> <p>Five-member board including: two City Council members and three community members.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Board</p> <p>Five-member board including: two City Council members and three community members.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Grand Junction (63,374)</p> <p>Grand Junction Municipal Code 5.12.110; 5.14.012; 5.15.012.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Littleton (48,007)</p> <p>Littleton Municipal Code 2-2-1; 2-10-2; 3-20-5; 3-21-2.</p>	<p>Board</p> <p>Five-member board (and two alternates) appointed by the City Council.</p>	<p>Board</p> <p>Medical only. Five-member board (and two alternates) appointed by the City Council.</p>	<p>Board</p> <p>Five-member board (and two alternates) appointed by the City Council.</p>	<p>Board</p> <p>Medical only. Five-member board (and two alternates) appointed by the City Council.</p>
<p>Brighton (41,254)</p> <p>Ord. No. 2209 (Brighton Municipal Code 5-8-50 reserved); 9-31-40; 9-30-20.</p>	<p>Hearing Officer</p> <p>Appointed by the city council (recently changed from a board to a hearing officer, after struggling to reliably staff such a board).</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>Appointed by the city council (recently changed from a board to a hearing officer, after struggling to reliably staff such a board).</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>

<p>Erie (25,447)</p> <p>Erie Municipal Code 4-8-2; 4-9-4; 4-11-3.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>The Municipal Judge.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Golden (21,254)</p> <p>Golden Municipal Code 4.84.010; 4.94.080; 4.98.030.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>Hearing Officer</p> <p>Medical only. Appointed by the City Council.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>Hearing Officer</p> <p>Medical only. Appointed by the City Council.</p>
<p>Durango (18,985)</p> <p>Durango Municipal Code 5-133</p>	<p>Board</p> <p>Three-member board including: City Manager and two community members appointed by the City Council.</p>	<p>Board</p> <p>Three-member board including: City Manager and two community members appointed by the City Council.</p>	<p>Board</p> <p>Three-member board including: City Manager and two community members appointed by the City Council.</p>	<p>Board</p> <p>Three-member board including: City Manager and two community members appointed by the City Council.</p>
<p>Lone Tree (14,653)</p> <p>Lone Tree Municipal Code 6-1-110; 6-3-130; 6-3-140.</p>	<p>City Council</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>	<p>Hearing Officer</p> <p>Appointed by the City Council.</p>	<p>N/A</p> <p>Medical and recreational marijuana businesses are prohibited.</p>
<p>Rifle (9,732)</p> <p>Rifle Municipal Code 6-5-30; 6-8-10.</p>	<p>City Council</p> <p>The City Council may appoint a designated City Council member or the Municipal Judge to act as the Hearing Officer.</p>	<p>City Manager</p>	<p>City Council</p> <p>The City Council may appoint a designated City Council member or the Municipal Judge to act as the Hearing Officer.</p>	<p>City Manager</p>

<p>Breckenridge (5,020) Breckenridge Town Code 2-5-3.</p>	<p>Board Five-member board appointed by Town Council.</p>			
<p>Idaho Springs (1,794) Idaho Springs Municipal Code 9-31; 9-153.</p>	<p>City Clerk</p>	<p>City Council</p>	<p>City Council</p>	<p>City Council</p>

**CITY OF BOULDER'S MARIJUANA LICENSING AUTHORITY MITIGATING AND
AGGRAVATING FACTORS FOR VIOLATIONS AND PENALTY SCHEDULE GUIDELINES**

Effective _____ and last updated on July 17, 2019

This chart includes the most frequently occurring violations, but it is not an all-inclusive list of all possible violations of the Boulder Marijuana Codes. The Licensing Manager MAY, in their discretion, consider the following mitigating and aggravating factor evidence in imposing penalties. **WRITTEN MITIGATING FACTOR EVIDENCE NEEDS TO BE SUBMITTED TO CITY LICENSING OFFICE NO LATER THAN 14 DAYS AFTER THE DATE OF THE VIOLATION.**

Mitigating Factors	Aggravating Factors
Training Programs- initial and on-going. Responsible Vendor Training and supplemental. Must be current.	Failure to submit Mitigating Factor evidence no later than 14 days after the violation date
Written Policies	Prior Offenses in the past five (5) Years
Supervision Procedures	Violation occurs outside of compliance checks (aka "Stings")
Self-check programs	Lack of effective operational/training programs
Use of birth-date input cash registers	Multiple Police Contacts
Community Involvement	Failure to cooperate with marijuana enforcement representatives
Responsible advertising practices	Irresponsible advertising policies
The problem that led to the violation was outside of licensee's control	A general pattern of negligence on the part of licensee
Active Responsible Association of Retailers (RAR) membership (4 out of 6 yearly meetings attendance)	Failure to Accept Responsibility for Violation
Other Pertinent Facts, including but not limited to, that the violation is a first offense with a single count	Other Pertinent Facts, including but not limited to, multiple counts or if the violation is a repeat offense or that violation occurs after legal requirement was explained to licensee

These suspension penalties are guidelines only and are not binding on the Licensing Manager. The Licensing Manager reserves the right to impose any penalty authorized by law, up to and including license revocation, transfer denial, or non-renewal.

Suspension dates are selected by the Licensing Manager, but generally start on Monday that is 10 days after penalty assessment date.

Also, Fines in lieu of suspension days served for retail, testing or manufacturing facilities are accepted at discretion of Licensing Manager. The Licensing Manager is not required to offer fines in lieu of suspension.

Note: pursuant to City Manager Rule adopted _____, 2019, violations for which the penalty is completed more than five years before the date of the violation are not considered in determining a penalty.

EGREGIOUS COMMUNITY VIOLATIONS				
Code Violation	Dispensary/ Sales	Grow	MIP	Testing
<u>Described Violations</u>				
<ol style="list-style-type: none"> 1) Making sales of marijuana or a marijuana product to a person under 21 years of age in a recreational marijuana businesses, or under 18 years of age without a guardian in a medical marijuana business. 2) Allowing a person under the age of 21 in the restricted area of a recreational marijuana business or under the age of 18 without a guardian in the restricted access area of a medical marijuana business. 3) Not making disposed-of marijuana unusable and unrecognizable, or within licensee's control, not locking disposal dumpsters. 4) Using unapproved locking storage that does not qualify as a safe or not locking finished product or cash in a safe for overnight storage 5) Permitting marijuana or a marijuana product to be outside of a licensed premise except for sales and transports. 6) Making a permanent modification of the licensed premises without prior city approval. 7) Permitting consumption of marijuana on-premises (customers, patients, employees, managers, or owners). 8) Refusing to allow city inspections or access to the premises, or refusing to provide city records. 9) Failing to have a licensee or keyholder on the premises and responsible for all activities within the premises during all times the business is open or in the possession of another person. 10) Ownership changes without disclosure to the city 11) Advertising that appeals to minors or is at a physical location that does not qualify as an Adult Event. 				
<u>Egregious Guideline Penalty</u>				
1 Count (suspended/abeyance for 1 yr)	5/9	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance
2 Counts (suspended/abeyance for 1 yr)	10/20	10 day fine w. 20 day held in abeyance	10 day fine w. 20 day held in abeyance	10 day fine w. 20 day held in abeyance
3+ Counts (suspended/abeyance for 1 yr)	15/30	15 day fine w. 30 day held in abeyance	15 day fine w. 30 day held in abeyance	15 day fine w. 30 day held in abeyance
2 nd Offense in 1 yr (suspended/abeyance 1 yr)	10/9	10 day fine w. 9 day held in abeyance	10 day fine w. 9 day held in abeyance	10 day fine w. 9 day held in abeyance

LICENSED OPERATIONAL VIOLATIONS				
Code Violation	Dispensary/Sales	Grow	MIP	Testing
<p><u>Described Violation</u></p> <ol style="list-style-type: none"> 1) For Medical Marijuana wellness centers only, not having a private consultation room or not offering other holistic offerings 2) Secure dispensing area not locked or restricted licensed location unlocked 3) MJ product transport details not completed, not emailed to BPD or resulting email bounce back not printed for product transport 4) Processing of MJ in violation of the Code (e.g. at store, at a grow or illegal processing at a MIP or Testing) 5) Failure to abide by neighborhood responsibility plan 6) Failure to address odor violations 7) Failure to operate business in compliance with the license or its operating plan or security plan 8) ID scanner not utilized and/or failure to properly verify ID for determination of age 9) Refusing to remove keyholder from management when city approval not obtained 10) Failure to obstruct view of MJ sales or storage from public view 11) Unapproved goods sold at licensed premises 12) Unsealed MJ possession by employees at licensed premise or acceptance of free samples by employees without payment of retail value city tax 13) MJ product or plants not properly packaged for removal/transport or MIP products not properly labeled 14) Video unavailable, cameras not working, or 40 days video off-site storage copy unavailable 15) Failure to timely provide financial records to assess fine or to timely pay assessed fine in certified funds 16) Failure to post premises during active suspension 17) Failure to pay taxes or fees due to the city or other governmental entity. 18) Advertising that is not permitted in City Code and not described as egregious above. <p><u>Operational Guideline Penalty</u></p>				
1 Count (set fine)	\$1,000	\$1,000	\$1,000	\$1,000
2 Counts (set fine)	\$2,500	\$2,500	\$2,500	\$2,500
3 Counts (set fine)	\$3,000	\$3,000	\$3,000	\$3,000
4 + Counts (<u>suspended/abeyance</u> for 1 yr)	5/9	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance	5 day fine w. 9 day fine held in abeyance
2 nd Offense in 1 yr (set fine)	\$3,000	\$3,000	\$3,000	\$3,000

These charts are not intended to be a complete list of all circumstances that are a violation of the requirements of the City Code, but a guideline of the most common violations for the Licensing Manager.

Fines will be calculated based on the gross revenue for the prior 3 full months (90 days) of METRC reports, sales reports, transport manifests and/or tax filing as requested by the City of Boulder, with a summary of such 90 days activity and a suggested daily business average calculated and provided by the Licensee. This information, along with the business's calculation of the daily fine, shall be provided to the City of Boulder's City Licensing office within 10 days of the assessment for verification by the city. The City will create a verified daily business average. The formula will be the verified daily business average multiplied by 20% of the verified daily business average, to then be multiplied by the number of days fine in lieu to be assessed.

Daily fine = Verified 90-day average daily gross revenue + 20% x number of days of suspension.

Fines will be paid in certified funds within 7 days of verification of the assessed amount by the City. For days of active suspension, posting of a conspicuous and publicly readable suspension poster (such as on the front door glass or window glass) by the licensee to be supplied by City Licensing is required. Failure to timely provide requested records for fine calculation or to failure to timely pay fines in certified funds will require service of suspended days rather than payment of a fine in lieu. Failure to post during active suspension days is considered a separate offense and will result in a separate Licensed Operational Violation being assessed.

In determining whether or not a second or subsequent violation occurred within a one-year period for abeyance suspension days or abeyance fine days, the Licensing Manager will use the date of conviction for the first violation (the date that the first penalty becomes final without appeal or the date of the appeal hearing where the Licensing Manager determines a conviction) to the actual date of the second violation. For example, if a licensee was "convicted" of their first violation occurring in January at a March 1, 2001 hearing and had ten days held in abeyance for one year and then they were cited on February 1, 2002, that would be considered a second violation within a year. The licensee would automatically have to serve the ten days held in abeyance from the first violation, plus their new suspension days determined by the Licensing Manager. If however, the licensee were cited on March 9, 2002, then it would not be considered a second violation within a year.

**Marijuana Advisory Panel (MAP)
City Council Chambers, Municipal Building, Boulder, CO
Wednesday, June 26, 2019, 1:00 PM-4:00 PM
Meeting Summary – FINAL**

Attendance: Allison Bayley, Mishawn Cook, Kathy Haddock, Keith Kuretich, Sandra Llanes, Alana Malone, Loree Schwarz, Jane Theodore, and Kate Thomson

Facilitation: Heather Bergman and Dan Myers

ACTION ITEMS

Mishawn Cook and Alana Malone	Write the egregious and non-egregious violation penalty schedules based on this meeting summary
Mishawn Cook/City Staff	Request that the future Marijuana Licensing Authority revisit the question of egregious versus non-egregious violations as one of its first orders of business, particularly as pertains to the following two violations, which MAP members did not agree on as egregious or non-egregious: <ol style="list-style-type: none"> 1. <i>“Not making disposed-of marijuana unusable and unrecognizable or not locking disposal dumpsters.”</i> 2. <i>“Failing to have a licensee or keyholder on the premises and responsible for all activities within the premises during all times the business is open or in the possession of another person.”</i>

MAP OPINION ON NEW MARIJUANA LICENSING AUTHORITY

MAP members discussed questions and issues that arose at council’s discussion of a possible new Marijuana Licensing Authority (MLA) on May 21. Their comments are summarized below.

- At its May meeting, MAP recommended that council establish an MLA that addresses (a) licensing (b) enforcement responsibilities and (c) policy issues. Council asked staff to ensure that MAP members understood the differences between licensing and enforcement responsibilities and still agreed on its original recommendations for the scope of the MLA. City staff clarified that “enforcement” includes the Boulder Police Department’s enforcement of the law regarding marijuana license violations, but also the hearings and potential penalties for determined violations. “Licensing” issues include renewals, transfers, and new license applications. Those applications can be approved or denied.
- Some group members who watched the council meeting said that council did not sound supportive of the MLA handling enforcement decisions because the skillsets and expertise for people on boards handling policy and enforcement functions could be very different. Council supported MAP’s proposal that the MLA’s licensing function should be phased in as its members grow more familiar with their policy duties, but some council members expressed concerns about the MLA handling enforcement issues. Staff noted that MLA members should recuse themselves in conflict of interest situations if necessary.
- Several council members asked staff to do additional research on how other jurisdictions approach liquor policy, licensing, and enforcement functions. In some small towns in Colorado, enforcement hearings are conducted by a panel consisting of a municipal judge, licensing staff, and one or two other appointed citizens. Other jurisdictions hire hearing officers, and others ask their city councils to preside over the hearings.
- There was some support at the meeting for using a judge or hearing officer to address enforcement decisions rather than a city-appointed board of volunteers. It should be noted that under MAP’s recommendation of a city-appointed board of volunteers to address licensing, issues could be appealed to a higher court. If the board is quasi-judicial (meaning it handles both licensing and enforcement via quasi-trials), appeals would go to a district court. If the board did not have

enforcement responsibilities and those responsibilities remain with the city's licensing department, appeals of the staff-proposed enforcement penalty would go to district court.

- In the city's current marijuana licensing and enforcement system, city licensing staff make a recommendation on the penalty for a given violation based on the existing penalty schedule and sends a letter about the violation and proposed penalty to the licensee. The licensee has ten days to appeal for a new hearing in municipal court or pay the fine or surrender the license as a Rule 106 action. Decisions in municipal court hearings can then be appealed to district court. If no appeal is made, staff's recommendation is final.
- The record of a quasi-judicial decision by MLA would have to be sufficient to allow the district court to review the record to determine if the MLA decision was arbitrary or capricious or not.
- MAP members reiterated their support for the MLA addressing policy issues and for phasing in licensing functions at the MLA's discretion six months to two years into the MLA's existence
- In past discussions, MAP has treated enforcement and licensing as analogous. At this meeting, MAP discussed three options for handling the enforcement issue: keeping the current staff enforcement system, moving forward with the original recommendations (which presumes that the MLA would take on enforcement duties in addition to its other licensing duties six months to two years into its existence), or tasking a third party (i.e., hearing officer or municipal judge) with addressing enforcement issues as needed. Creating both an MLA and a marijuana board to address violations would require the city to hire two additional staff members to support the new panel. Any quasi-judicial option (i.e., any entity that deals with issues beyond policy) would require staffing support from the city attorney's office to ensure that the entity in question is complying with the law in its decisions.
- City licensing staff are capable of continuing with the current enforcement system, but their role in that system could perhaps be taken on by a hearing officer or municipal judge.
- Continuity in staff support would be key for non-affiliated citizen members of the MLA as they acclimate to their roles.
- Several MAP members emphasized their desire that the MLA focus on policy, which could mean city staff continuing to handle enforcement duties.
- ***Recommendation: MAP recommended no change in the current enforcement system but reiterated its existing recommendations on the MLA's role in licensing and policy issues. Those recommendations include the MLA being quasi-judicial (as it would still consider license applications, which can require hearings) and allowing an undetermined number of ex officio members as necessary to ensure that key perspectives are represented if local representatives of those perspectives cannot be found to serve on the board.***

Additional Details Provided by Staff After the Meeting

- "Licensing issues" also include license modifications and ownership issues.
- A city-appointed board of volunteers considering licensing decisions would still be quasi-judicial, so its decisions could be appealed to a district court as a Rule 106 action.

PROPOSED PENALTY SCHEDULE FOR MARIJUANA

After the May 10 MAP meeting, a Penalties and Transfers Subgroup of MAP members met and created a series of recommendations on a revised penalty schedule for marijuana license violations in Boulder. City staff reviewed the document and wrote two documents in response: the first contained questions and comments concerning the subgroup's recommendations and the second contained a proposed penalty schedule. MAP members discussed these documents. Their comments are summarized below.

- Staff's proposed penalty guidelines include the same mitigating and aggravating factors considered in the penalty process as that used by the Beverage Licensing Authority (BLA).
- Staff recommended that fines for testing facilities ("tests"), growing operations ("grows"), and marijuana-infused product (MIPs) makers be calculated based on the previous 90 days of sales rather than the previous 365 because the latter could be extremely time-consuming for staff. It is

also the way that liquor license fines are calculated. The subgroup recommended 365 days because they were concerned that fines based on shorter time frames might miss the seasonal rises and drops in revenue for those businesses and so be less impactful than fines are for dispensaries, which make consistent daily sales. MAP members said that they did not have a strong preference on this issue.

- Staff also suggested that license violations no longer apply in penalty decisions five years after their occurrence, as is the case for liquor. A MAP member suggested the possibility of violations before 2016 (when the current penalty schedule was written) no longer applying in penalty decisions.
- Staff noted that fines are used almost exclusively as penalties for marijuana businesses' first, second, or third violations, although businesses are suspended occasionally by the municipal court.
- The subgroup recommended that the penalty schedule should depart from that used for liquor (the original model for the current penalty schedule) in some cases because the number of marijuana licenses in Boulder is capped at a much lower level by zoning laws than liquor licenses are. The subgroup's primary interest was in moving bad actors out of ownership and management positions as quickly as possible. Additionally, the cannabis industry is still much less normalized than liquor businesses are.
- The subgroup recommended dividing potential violations into "egregious" and "non-egregious" buckets to better apply proportionate penalties (and because they did not have time to consider adjustments to the penalty for every violation) while affirming that all violations are serious.

EGREGIOUS AND NON-EGREGIOUS COMMUNITY VIOLATIONS

MAP members reviewed instances where the subgroup and staff list of egregious community violations differed or where MAP members had concerns. Their comments are summarized below.

"Not making disposed-of marijuana unusable and unrecognizable or not locking disposal dumpsters."

- The State of Colorado's Marijuana Enforcement Division (MED) requires businesses to make waste material unrecognizable and to place it in a locked dumpster but does not require that the dumpster be on the premises or under surveillance. Because the locks on these dumpsters are frequently cut and because the dumpsters are owned by the garbage service, some MAP members were concerned that making this violation egregious could lead to unfair penalties for something outside of businesses' control.
- There have been instances where people have cut dumpster locks and taken marijuana waste that a business owner doused in bleach and still used it. However, enforcement officials do not consider bleach to be a sufficient means of making marijuana unusable and unrecognizable and advise business owners only to take their waste out on the morning of a garbage pickup. Some group members stated that keeping waste on site for that long would be unsanitary.
- Most marijuana businesses in the city have cameras on their dumpsters, many have a fence around their dumpsters, and many shred leaves and mix them with dirt to make the product unusable and unrecognizable. The State disposal rules only apply to fan leaves, and garbage service providers have created direct pickup arrangements with businesses. Business owners are not held responsible for cut locks if they have disposed of their products properly. City enforcement staff could not think of a single marijuana business in the city without dumpsters on its cameras.
- Several MAP members emphasized the danger posed by marijuana waste being stolen and consumed and recommended tough enforcement for violations on this issue.
- Some MAP members expressed concerns about businesses being punished for stolen plant tags, which do not fall under MED's disposal rules.
- A group member proposed rewriting this violation as "Not making disposed of marijuana unusable or unrecognizable or (within licensee's control) not locking disposal dumpsters."
- City staff emphasized that they consider aggravating and mitigating factors when applying penalties for this violation.

- While there was some discussion of splitting this violation into separate violations for making waste unusable and unrecognizable versus locking dumpsters, this violation will remain as it is written in code.

Additional Details Provided by Staff After the Meeting

Boulder code (B.R.C. 6-14-10(a) and 6-16-10(a)) requires cameras to monitor and record all areas of the premises (except in restrooms), and where persons may gain or attempt to gain access to marijuana or cash maintained by the recreational/medical marijuana business.

“Consuming marijuana on-premises (customers, patients, employees, managers, or owners)”

- MAP members expressed concerns about making this violation egregious because a customer could eat or smoke marijuana before an employee could kick them out, making the immediate violation outside of the business's control. The customer could also continue smoking outside of a store without the business's knowledge and still be "on-premises."
- Staff noted that this was a City Manager's Rule that they had to follow.
- ***Recommended change: The group agreed to keep this violation in the egregious category but to rewrite it as “permitting on-premises consumption of marijuana.”***

“Using unapproved locking storage that does not qualify as a safe or not locking finished product or cash in a safe for overnight storage”

- MAP members said that businesses should not be punished for break-ins to refrigerated storage or bakery cases.
- Staff noted that there is an exception to this rule for refrigerators and freezers if they have proper locks. They also noted that locking storage rules deter theft and prevent break-ins to dispensaries.
- The group agreed to leave this violation as written.

“Failing to have a licensee or keyholder on the premises and responsible for all activities within the premises during all times the business is open or in the possession of another person.”

- MAP members noted that some businesses have two separate stores in the same building with a common waiting room that must each have their own keyholder on-site at all times. This creates staffing challenges, and some MAP members suggested that businesses in this situation should be allowed to have just one keyholder on-site rather than two (one for each business). They emphasized that this would only apply to businesses with two separate stores of the same license type that share a waiting room.
- Several MAP members emphasized the need to have responsible keyholders on-site at all times.
- Staff said that the current code (B.R.C. 6-18-8) requires two keyholders for co-located, physically separated businesses.
- Some group members stated that this violation should be non-egregious because it does not impact public health or safety (which the subgroup considered when deciding what was and what was not egregious). Other group members said the violation is egregious because business owners have attempted to avoid penalties in the past by claiming they could not be held responsible for violations that occur when there are no owners or keyholders on-site.
- Some group members supported making this violation non-egregious, but others disagreed. Group members were open to a solution involving the rewriting of ordinance language, but that scope of work was not made available to MAP by council, and the group was unable to agree on a change to the existing rule.
- ***Recommendation: Group members agreed to add “The problem that led to the violation was outside of the licensee’s control” to the list of general mitigating factors in the penalty schedule and “A general pattern of negligence on the part of the licensee” to the list of general aggravating practices. They also agreed to keep the violation as egregious and recommended***

that the MLA consider changing the ordinance language for this violation as one of its first orders of business.

"Advertising that appeals to minors or is in a place that is not an adult event"

- Staff said that this violation was intended to address advertising health concerns. "Adult events" are defined as those in which 70% of attendants are over 21 and cannot be held on city property.
- Several MAP members requested that this violation be rewritten to reflect the advertising currently permitted by code. The group emphasized that some advertising in adult-focused (i.e., 70% or more of readers are over 21) publications is permitted in code.
- ***Recommended change: Rewrite this violation as "advertising that appeals to minors or is at a physical location that does not qualify as an adult event."***

"Allowing a person under the age of 21 in the restricted area of a recreational marijuana business or under the age of 18 without a guardian in the restricted area of a medical marijuana business"

- Staff clarified that they had rewritten the description of this violation slightly from the subgroup's recommendations to reflect what is written in code.
- The group agreed that this violation should still be considered egregious.

"Video unavailable, cameras not working, or 40 days video off-site storage copy unavailable."

- Several MAP members expressed concerns that businesses would be punished if there was a power outage that went beyond the battery life of backup cameras. The cameras that marijuana businesses use are very expensive and can take time to replace. Staff emphasized the fact that the city needs probable cause to ask for video footage and would consider downed cameras as a separate infraction unless it seemed like the business was not sharing video for nefarious reasons.
- Staff consider this violation egregious because businesses have impeded investigations of disturbances in dispensaries in the past by refusing to share video footage.
- Some group members requested adding situations in which enforcement personnel are concerned about another violation occurring when cameras were not working to the list of aggravating circumstances surrounding this violation.
- ***Recommended change: The group agreed to make this violation non-egregious. They also agreed to add "The problem that led to the violation was outside of the licensee's control" to the list of general mitigating factors in the penalty schedule and "A general pattern of negligence on the part of the licensee" to the list of general aggravating practices.***

OTHER STAFF PENALTY SCHEDULE CHANGES

MAP members discussed other additions to the penalty schedule from staff. Their comments are summarized below.

- Staff added "failure to timely provide financial records to assess fine or to timely pay assessed fine in certified funds," "failure to post premises during active suspension," "failure to pay taxes or fees due to the city or other governmental entity," and "advertising that is not permitted in city code and not described as egregious above" to the list of non-egregious licensed operational violations. Staff clarified that businesses that agree to a payment plan with an auditor are still considered to be paying their taxes in a timely fashion.
- MAP members agreed with staff's recommendation to calculate fines for tests, grows, and MIPs based on a period of 90 days to avoid staff capacity issues. They also agreed on staff's proposal that fined businesses need to provide a record of their 90-day sales within ten days of being asked to do so. Businesses would then have ten days to appeal that fine. If they did not, they would need to pay the fine within seven days of when the city announces it.
- Subgroup members noted that they had not reached a decision during their meetings about specific changes to the penalty schedule for non-egregious operational violations and had recommended that non-egregious violations (for all types of marijuana business) should be fined for their first

three counts of violations in accordance with the penalty schedule. The fourth offense would be punishable by a suspension equivalent to that for an egregious violation. The subgroup (while recognizing that staff always have the prerogative to revoke licenses with cause) focused on replacing revocation with suspensions in the penalty schedule to provide staff with more penalty leeway.

- The group agreed that the MLA should take up the issue of how long of an exact time period to use to calculate penalties.
- ***Recommendation: Non-egregious violations will be calculated based on the existing penalty schedule up to the third count of a violation, with suspension equivalent to that for egregious offenses replacing revocation for the counts thereafter. There will be a separate penalty schedule for egregious violations (see above).***

VIOLATION DROPPING OFF/CARRYING OVER IN LICENSE TRANSFERS

MAP members discussed the question of whether violations should drop off or carry over with transferred licenses. Their conversation is summarized below.

- Staff did not agree with a suggestion recommending that violations that occurred before 2016 drop off because the current penalty schedule was not finalized until 2016. Staff noted that there was an appeal option for penalties (to a hearing officer in 2010-11, district court in 2012-14, and municipal court from 2014-16) before the penalty schedule was written. Staff reiterated their proposal that violations are not considered in penalty assessments five years after a violation, as is the case for liquor.
- The subgroup originally recommended that violations should not carry over with transfers regardless of the percentage of ownership change involved because MED's review of all transfers is robust enough to prevent licensees with violations from merely restructuring or disguising transfers to themselves or associates.
- MAP members expressed concerns that the current difficulty of transferring licenses with violations serves as a disincentive for bad actors to transition out of ownership. It makes it difficult for clean actors to buy and rehabilitate bad licenses. These group members proposed that the city could do its own investigations of transfers to ensure that they are legitimate transfers and not shams.
- Staff receive copies of state applications for transfers or license renewals but are not privy to MED's investigation results, background check results, tax records, etc. Staff said that the city might need to double transfer fees to pay a third-party to conduct the forensic evaluation necessary to determine if a transfer is an arms-length third party transfer if that is what MAP recommends. They expressed unease with asking businesses without violations to pay higher transfer fees to ensure that transfers are clean.
- MED representatives said that their investigations are in-depth (but not always as in-depth as municipal investigations) and can lead to transfer rejections for tax liens, unpaid child support or student loans, convictions of three years or more, etc. In instances where 100% of ownership transfers to new owners, compliance history and administrative action do not carry over, but they do for any transfer of ownership that is less than 100%. MED uses forensic accounting to determine what percentage of ownership is being transferred under different ownership types based on employment records and business history for the previous ten years. MED representatives confirmed that they may be able to share violation histories and the general components of investigations with city officials, but not specific financial records or criminal histories.
- Several group members expressed concerns that MED does not investigate whether licenses are being transferred and if violating keyholders will remain involved. MED representatives said that violations stay associated with keyholders and owners.
- Businesses could be required to provide the city with copies of all documents that they must submit to MED. Currently, the city only receives copies of MED license or approval letters. The city would outsource the investigation of anything not covered in MED's process to a third-party.

- ***Recommendation: The group agreed that violations would not be considered in the assessment of penalties five years after they take place, as is the case for liquor. They also recommended providing an option for applicants who want to transfer their license but also want violations to be dropped off for their license. This option would be available for an additional fee to cover the third party investigation cost necessary to verify that the applicant met the city's criteria which would require a 100% ownership change, evidence of an adequate change in management, daily operational oversight of the licensed business, and evidence of rehabilitation so that further violations do not occur. Businesses transferring licenses that want violations to drop off would pay the city for a third-party investigation to determine the validity of their transfer based on an average of the overall costs of those investigations. The applicant would have to pay for the investigation regardless of whether the transfer application was approved or not. Depending on the results of the investigation, violations could be wiped clean from a transferred license (if they meet the criteria described above), or a transfer could be approved without removing violations, or the transfer application could be rejected altogether. Those transferring licenses without violations or who do not want to pay for an investigation to clear their licenses of violations would be exempt from the fee. City staff reserved the right to research the legality of this recommendation. They will inform MAP if this recommendation is legally unimplementable.***

NEXT STEPS

- The public was given an opportunity to provide public comment, but none were provided at this meeting.
- This was MAP's last meeting. Group members thanked each other for their hard work on behalf of the city.
- The first council ordinance reading for the new MLA will be on August 6. A second reading (and public hearing) will be held on August 20.

Part 9-
All Other
(i.e. Board Rules of Procedure, Application Scripts, Legal Memos)

Draft CLAB Rules of Procedure for Advisory Meetings

Quasi-Judicial Procedures

June 1, 2020 Memo on laws, meeting procedures, and virtual chair

July 24, 2020 Memo for Reading and Meeting packets

July 17, 2020 Legal Memo regarding Public Comment and Conflicts of Interest



DRAFT

CITY OF BOULDER

CANNABIS LICENSING & ADVISORY BOARD

RULES OF PROCEDURE

Most Recently Updated

May 4, 2020

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CHAPTER 1 APPLICABILITY AND EFFECTIVE DATE

Section 1-1 Applicability

In addition to any other laws, ordinances or regulations which may be applicable, these rules of procedure shall govern all applications hearings and advisory proceedings before the City of Boulder Cannabis Licensing and Advisory Board (“CLAB”).

Section 1-2 Effective Date

These rules of procedure shall be effective as of the date of adoption or amendment noted on the cover page.

Section 1-3 Organization and Titles of Rules of Procedure

These rules shall be organized and referred to by chapter, section and subsection. Chapter, section, and subsection titles shall be used for convenience only and shall not be used as catchwords to construe the meaning of any provision of these rules of procedure.

CHAPTER 2 JURISDICTION, ORGANIZATION, AND MEETING PROCEDURES

Section 2-1 City Manager Shall Serve as Licensing Clerk

Pursuant to section 2-3-25, B.R.C. 1981, the City Manager acting by and through the Licensing Manager shall serve as the Licensing Clerk for the CLAB. The Licensing Clerk’s duties may be delegated to staff other than the Licensing Manager should the City Manager so desire. The Licensing Clerk shall be the Authority’s agent for all purposes specified by state or local law, including preliminary investigations and findings, and other actions necessary or desirable under these rules of procedure.

Section 2-2 Jurisdiction

The CLAB is an advisory board to the city council with direction to advise city council and city manager on marijuana and hemp issues, strategies, goals and policies¹ while

promot[ing] the Boulder community’s interests and values in the local regulation of marijuana and hemp, while considering the downstream consequences of such regulations on the community and on public health and safety while supporting economic development and congruence between local ordinances and state laws.²

The advisory functions are stated in section 2-3-25(h)(1)-(6) of the Code.

¹ §2-3-25(h)(2)

² §2-3-25(h)(1)

CLAB may also phase in licensing duties over time.³ Within a period of six months to two years from the origination of CLAB,⁴ it shall set a schedule to phase in and may include any of the functions stated in section 2-3-25(i) of the Code. The CLAB is required to hold a public hearing prior to making a recommendation to council or taking action.⁵ The CLAB may not perform administrative functions except as specifically identified in the Code.⁶

Section 2-3 Regular Meetings

There shall be one regular meeting of the Authority in each calendar month, provided that the Licensing Clerk may post notice canceling the meeting if at least one licensing application or one advisory topic requiring a public hearing or other action has not been timely filed. Regular meetings shall be held on the first Monday of each month and shall commence at 3:00 p.m. in the Council Chambers of the Municipal Building, 1777 Broadway, Boulder, Colorado. The CLAB may by motion prescribe a different date, time or place for any such regular meeting, and may by motion or call of the Chair, schedule special meetings as deemed appropriate.

The goal of the CLAB in its advisory capacity is to make recommendations, by a quorum of its members, to city council regarding issues, strategies, goals and policies on city marijuana and hemp laws consistent with section 2-3-25(h). Such recommendations may be heard by Boulder City Council once a year as necessary.

Section 2-4 Special Meetings

Special meetings may be called by the chair or two members of the CLAB and may be conducted at any time and place within the City of Boulder. No special meeting may be conducted or continued on a licensing matter without complying with the seven days publication and posting notice requirements.

Section 2-5 Meetings to be Open and Public

Pursuant to section 2-3-1(b)(5), B.R.C. 1981, all meetings of the CLAB shall be open to the public, after full and timely notice of date, time, place, and subject matter of the meeting, and all meetings shall include an opportunity for public comment on any matter relevant to the CLAB's responsibilities, subject to the discretion of the Chair on the time and length of such comment.

Section 2-6 Minutes

Pursuant to section 2-3-1(b)(2), B.R.C. 1981, the Licensing Clerk shall keep minutes of all meetings and records of all transactions on behalf of the CLAB.

³ §2-3-25(e)

⁴ §2-3-25(e)

⁵ §2-3-25(g)

⁶ 2-3-25(k)

Section 2-7 Quorum

Pursuant to section 2-3-1(c), B.R.C. 1981, four members of the CLAB shall constitute a quorum, and the CLAB shall act only on an affirmative vote of at least four members.

Section 2-8 Election of Chair and Vice-Chair

Pursuant to section 2-3-1(b)(3), B.R.C. 1981, the CLAB shall appoint from amongst its membership a Chair and a Vice-Chair. In the absence of both the Chair and Vice-Chair, the Chair shall appoint an acting Chair.

Section 2-9 Parliamentary Procedure

All questions of procedure or order shall be decided by the Chair, subject to appeal by a majority of the members present. The Chair may direct the City Attorney to provide advice and guidance on any question or procedure or order. *Robert's Rules of Order, Newly Revised (1981)* shall not be applicable to proceedings of the CLAB.

Section 2-10 Supplemental Rules

The CLAB may from time to time adopt supplemental rules not in conflict with the Boulder Revised Code or these Rules of Procedure. Any supplemental rules shall be reviewed by the Licensing Clerk and approved as to form by the City Attorney.

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QUASI-JUDICIAL HEARING ELECTRONIC PARTICIPATION RULE

The City Council may hold quasi-judicial hearings at a meeting through electronic participation, subject to the procedures set forth in this Rule. To the extent practical, the Board will use its standard meeting procedures, as modified by this Rule. To the extent that this Rule conflicts with the procedural rules of the Board, this Rule is intended to prevail.

GENERAL PROCEDURES

A. Applicant's Written Request. An applicant may request to have its application for a hearing conducted via electronic participation by completing a written request form provided by the city. The applicant will acknowledge that holding a quasi-judicial hearing by electronic participation presents certain legal risks and involves an area of legal uncertainty, and the applicant will acknowledge that moving forward with a quasi-judicial hearing by electronic participation will be at its own risk.

B. City Manager to Determine Suitability of Conducting Quasi-Judicial Hearing by Electronic Participation. These procedures create no right in any party to a quasi-judicial matter to a hearing conducted by electronic participation. Upon receipt of a written request, the city manager will determine whether the city has the capability to hold the particular type of hearing by electronic participation, what available form of electronic participation is most appropriate for the type of hearing, and set a date(s) for the hearing(s).

C. Hearings Open to the Public and Subject to Adequate Technology. Hearings will be open to the public and provide the ability for interested members of the public to join the hearing electronically. The method chosen by the city manager will ensure the public can view or listen to the hearing in real time and interested parties may speak at designated times during the hearing. If at any point the city manager or board chair determines it is not possible or prudent to hold the hearing by electronic participation, whether due to technical issues or an inability to do so while meeting constitutional due process requirements, the hearing will be continued or vacated, and the matter will be held in abeyance until any technical problems can be resolved or in-person meetings have resumed.

D. Notice Requirements. In addition to the requirements of the Boulder Revised Code, the city will include additional notice about how the hearing will be conducted and how the public can access, observe, and participate in the hearing. The additional notice is intended to reasonably inform interested persons that such hearing will instead be held by electronic participation; provided, however, this additional notice will not be deemed jurisdictional.

E. Technological Accommodations. The city will make reasonable efforts to accommodate interested parties who lack necessary computer equipment or the ability to access such equipment by providing call-in or telephonic access to the meeting. Interested parties will

be encouraged to submit written comments in advance of the hearing, which comments will be made a part of the hearing record.

F. Hearing Procedures. Hearings are for conducting the business of the City of Boulder. Activities that disrupt, delay or otherwise interfere with the meeting are prohibited. At the onset of the hearing, the board chair will describe the hearing procedures, including how testimony and public comment will be received. The department that supports the Board will moderate the electronic meeting. To the extent practical, any person who wants to attend the meeting will be added to the meeting and will be muted. Any person who wants to testify should inform the moderator. The moderator will unmute such person during the public hearing to testify for three minutes.

1. Any documentary evidence will be provided to the designated secretary of the Board via email at least 48 hours prior to the beginning of the meeting. The secretary will publish the documentary evidence on the Board's city webpage where the rest of the materials are published. Documentary evidence includes, without limitation, materials related to specific applications and other documents to be shown electronically during the hearing.

2. The applicant will be allowed to speak to its application for 15 minutes. City staff will be allowed to speak to its recommendations for 10 minutes. The applicant or staff may request additional time from the board chair for more complicated applications. Persons wishing to testify will be allowed up to three minutes to speak. For electronic hearings, every person will need to testify for themselves. No pooling of time will be allowed.

3. The time for speaking or asking questions is limited to facilitate the purpose of the meeting. No person shall speak except when recognized by the person presiding and no person shall speak for longer than the time allotted. Each person shall register to speak at the meeting using that person's real name. Any person believed to be using a pseudonym will not be permitted to speak at the meeting.

4. Only audio participation will be permitted except for city officials, employees and invited speakers. All others will participate by voice only.

5. The person presiding at the meeting shall enforce these rules by muting anyone who violates any rule.

6. Board members, staff, and applicants shall not use chat features of electronic meeting software except for the purpose of asking the board chair procedural questions or to request to be recognized by the board chair to speak.

7. Applicants will be provided the opportunity to speak for up to three minutes prior to the close of the public hearing.

8. In order to accurately record board member votes, the board chair will call for a roll call vote on any motions made during the hearing or taking final action.

G. Record. The secretary of the Board will ensure that all equipment used for the hearing is adequate and functional for allowing clear communication among the participants and for creating a record of the hearing as required by law; provided, however, the secretary will not be responsible for resolving any technical difficulties incurred by any person participating in the hearing.

CITY OF BOULDER, COLORADO

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MEMORANDUM

TO: Cannabis Licensing and Advisory Board

FROM: Kathleen E. Haddock, Senior Counsel

SUBJECT: Background on State/Federal law, Parliamentary Procedure and Virtual Chair

DATE: June 1, 2020

At the May 4, 2020 CLAB meeting, there were a few issues on which there were legal questions and discussion that lead to advising the board members about the scope of its authority to help determine the time you want to spend on agenda items.

Responsibility for upholding State/Federal law when marijuana is illegal at the Federal level

Although medical marijuana was legalized in Colorado in 2000 and recreational marijuana was legalized in 2014, marijuana remains a Level 1 Controlled Substance and is illegal under the federal Controlled Substances Act. What level of enforcement the federal government will do in Colorado depends on the direction of the U.S. Attorney's Office's current administration. Compliance with oaths of office and with state law regarding marijuana, even if contrary to federal law, is all that is required. You are not required to know or follow federal law regarding marijuana that is inconsistent with state law.

Parliamentary Procedures

Procedures for orderly functioning of meetings is referred to as Parliamentary Procedures. While technically there are very sophisticated official Parliamentary Rules of Procedure, for advisory boards, the procedures can get in the way of functioning. Therefore, we suggest simplifying procedures to facilitate the board being able to function more smoothly. In that vein, we propose:

1. Roll call votes are required only for official actions of the board that become part of a permanent record. That would include items like approval of meeting minutes and official recommendations to city council. Prior to such votes, one member should make a motion and another member should second it. If there is no second, the motion dies. If there is a second, there should be an opportunity for discussion and/or questions by staff members before the vote is called.

2. When members are setting priorities or similar matters that determine how the board will spend significant time, we will ask for raised hands to have a record of the input from each member.
3. When asking for work by staff or presentations that will require staff effort, we propose adopting the concept of a “nod of five” that at least a majority indicate the matter is important enough to give the priority of staff time.

Staff can let you know before asking for a “vote” the type of vote that is requested. In the near future, the only roll call votes will be for approving minutes.

A more complicated issue came up last time of whether to reconsider a roll call vote that was taken. Hopefully we have alleviated the problem by limiting the number of roll call votes, but in the event that after a roll call vote, someone wants to amend the minutes or whatever other matter was the subject of the vote, a member on the prevailing side of the vote can make a motion for reconsideration. If there is a second to that motion, there is a vote whether to continue with reconsideration. If it passes, a new motion to substitute the original motion can be made, and if seconded, a roll call vote occurs. If the new motion is not seconded, that motion dies, but someone else could make a different motion to see if it gets seconded, leading to discussion and another vote. If none of the motions pass, the original vote stands.

Scope of Authority for Prioritization of Agenda Items

At the May meeting, there were several items suggested for board discussion or presentation for which the city has no authority. We wanted to let you know so you could determine the amount of time you wanted to spend on such items as compared to items for which your recommendations could lead to a change in city policies or laws. An example is incarceration for marijuana offenses.

There is no incarceration for marijuana offenses at the municipal level. Incarceration results from violation of state or federal law. State law is enforced before the 20th Judicial District for Boulder and through the Boulder District Attorney. So, while racial equity is a real issue with respect to marijuana offenses, there are no city laws that do or could affect incarceration for marijuana offenses.

Mishawn will be letting you know of more general racial equity issues within the city. This information is to help you balance how you want to allocate meeting time among matters.

Chair and Vice Chair for Virtual Meetings

At the May meeting we discussed members selecting a chair and vice chair for running the virtual meetings until members have had the opportunity to meet in person to have another election on the chair and vice chair. If any of you have an interest in serving as chair or vice chair and want to let other members know of that interest before the meeting, let staff know and we will let members know.

We look forward to “seeing” you Monday!

MEMORANDUM

TO: Cannabis Licensing and Advisory Board Members

FROM: Kathy Haddock, Senior Counsel

DATE: July 24, 2020

RE: Board Packets

Staff heard that the packets we have been sending out are a bit overwhelming with too little time to review all of the documents. We want to try something different. Please let us know how this works as well as anything else staff can do to facilitate your roles as board members.

Reading Packet - About 11 days before the monthly meeting, staff will send board members the policy suggestion forms, written comments and articles that have been sent in since the last meeting packet. This packet will also include the published agenda which has the agenda items on it, but not all the detail. Any suggestion forms, written comment or articles received after this packet is sent will be provided in the Reading Packet before the following month's meeting. These materials are background information and not necessarily for discussion at a meeting. The documents will be in Adobe (PDF) format with bookmarks for the items.

Meeting Packet - The Thursday before the meeting staff will send board members the meeting packet with the detailed agenda and all materials the board will need for that meeting. For the August 3, 2020 meeting, this will include a detailed agenda, July minutes that the board will be considering for approval and the requested amendments to the June minutes, Michael Dougherty's bio, and any further information on other speakers that have been suggested.

Staff is looking forward to hearing how this works for the board and any other suggestions members may have.

"See" you on the 3rd.

MEMORANDUM

TO: Cannabis Licensing and Advisory Board Members
FROM: Mishawn Cook, Licensing Manager
Kathy Haddock, Senior Counsel
DATE: July 17, 2020
RE: Pending Issues for Meetings

First, as a staff, we are impressed with the ability of board members to navigate through this virtual environment. It is going better than we had hoped and we appreciate each of you for making that true. As staff, we are trying to find our way too as we try to bring relevant information to the board. Since the board has a lot of flexibility of how it wants to accomplish the purposes of the board, we are blazing a new path. In that vein, several items have occurred during and since the last meeting for which the board will need to make some decisions. These will be items for the August 3, 2020 meeting, not the July 20, 2020 meeting. We wanted to get the information to the board before July 20 in case any member has additional questions or wants further information before the August 3 meeting.

Speakers

We understand that the board wants to have experts make factual presentations to it related to marijuana and the effect on the community. Members have come up with names of researchers and government officials that have responsibility for marijuana in their official capacity (Boulder District Attorney, Boulder County Health, School Resource Officer). Staff is now getting requests for speakers without that background to give their opinions and requests from individuals to talk about topics that are not related to the immediate issues the board is addressing. To date, nine speakers have been suggested. At one-hour each, that is nine extra hours of meetings which likely have to be spread over at least four meetings.

For a public board, the board usually directs the agenda to topics it wants to hear about to inform a specific decision. People that want to make suggestions or give opinions may do so in writing to the board and speak during public comment. When the board is considering a particular decision, the board holds a public hearing during which anyone can speak. Dedicated time for invited speakers is, by necessity of time and resources, limited to those the board has requested on a specific topic with time and content limits. We suggest that the board decide intentionally (i) the topics for speakers it is looking for in this first phase, (ii) the qualifications of speakers, (iii) the amount of time the board wants devoted to those speakers over the next few months, and (iv) require speakers to have a plan for the topics they will cover. Without clear parameters the board risks opening the meetings to any speaker that asks.

RE: Pending Issues for Meetings

To date, the speakers that have been named at meetings are:

1. Danny Conroy, co-founder of AIM House and the Collegiate Recovery Center – Set for July 20 presentation meeting.
2. Michael Dougherty, Boulder District Attorney – Discussing impact of marijuana use and businesses in criminal enforcement in Boulder, set for August 3 Meeting.
3. Boulder Police Department School Resource Officer.
4. Kent Hutchinson and Cinnamon Bidwell, CU Researchers – Marijuana medical research.
5. Healthy Kids Colorado Survey, Allison Bayley or another speaker – Results of biennial survey.
6. Medical Doctor who recommends marijuana, Dr. Stacy Green, Holos Health, or another speaker.

A doodle poll with options for presentation meetings will be sent out that include choices of four meeting times for August and five meeting times for September.

Since the last meeting, the following have been suggested to staff:

1. Dr. Libby Stuyt, chair of task force of AG Weiser, Colorado Mental Health Disorders in the Criminal and Juvenile Justice System (MHDCJS).
2. Andrea Meneghel, Public Affairs Director of the Boulder Chamber – To provide the view of marijuana businesses, he was also a member of the former Marijuana Advisory Panel.
3. Kate Thompson, consultant to marijuana businesses on the front range – To provide her experience, she was also a member of the former Marijuana Advisory Panel.

The first six fit within the direction staff was given, the last three do not. There may also be some overlap in the first six names. The board also has a speaker request from an attorney that wants to talk about hemp sales in Boulder (Boulder does not regulate hemp sales; only cannabis plants and extraction from cannabis plants). In order to determine which speakers the board wants staff to schedule, we suggest the board's discussion address at least the following:

Questions from staff

Is the board's direction to staff for speakers to have specialized knowledge about the effects of marijuana use, particularly on youth, by research, analysis or official government experience or does it want to hear from other types of speakers in the next few months?

If the board wants to expand the definition of speakers it wants, what is the new definition?

Based on the above, which speakers listed would the board like for staff to arrange to present?

RE: Pending Issues for Meetings

General Meeting Issues

A few board members have commented that they were not sure if they could raise questions or ask for a discussion before a decision. Absolutely yes. The board meetings should not become so formal that members feel pressured to make a decision or proceed without all questions answered. Please let staff know how we can better facilitate the meetings to allow for such requests.

Public Comment

Following the public comment period at the last meeting a few emails were sent to city council, the city attorney, and printed in the *Daily Camera*. Part of the communications were related to perceived conflicts of interests and others were related to free speech. Because the meetings on the first Monday of the month are business meetings for the board and there is an agenda of business that needs to occur, we suggest that public comment be moved on the agenda to the end of the meeting, after the business has been conducted. This will ensure that the CLAB business gets accomplished, and new ideas or thoughts are presented at the end of the meeting when it can be decided if they lead to further board discussion, direction to staff to obtain additional information, or placement on a future agenda. Public comments may also be submitted to CLAB via written suggestion forms or other written materials. This will also address the concerns of citizens that wanted meetings to start after 5:00 p.m. so they could provide public comment at meetings. Public comment is usually only held at regular monthly meetings and not special meetings.

Conflicts of Interest

This is a very difficult issue to apply to specific situations. The perception of conflicts is often in the eye of the beholder and actual conflicts are determined by the facts of each circumstance. We have advised board members extensively about conflicts and the Code of Conduct in Chapter 2-7 of the Boulder Revised Code which applies to CLAB members. None of you have a conflict of interest from serving on the board by the businesses you operate, your employer, or specific views or experiences. You all have committed to make decisions as a CLAB member in accordance with the direction from council printed at the top of every agenda. You must make the analysis of whether or not you have a conflict of interest when there is a specific decision to be made. Then your analysis is to determine whether your decision would lead to a financial gain for you that is different than the financial gain to others in the community. At this point, the board's discussions are very general and there are no specific policy decisions before the board. Board members always have to be aware to avoid a perception of a conflict, but I am not aware of any specific conflict of interest that has arisen by anything CLAB has done to date or that is planned in the next few months.

RE: Pending Issues for Meetings

If any of you have questions or would like us to be prepared to address anything further on August 3, please let us know. Again, thank you for your thoughtfulness and respect for each other and differing opinions that you have displayed.