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ORDINANCE O-2017-

A BILL FOR AN ORDINANCE AMENDING TITLE 6 OF THE LONGMONT MUNICIPAL
CODE ON MARIJUANA STORE REGULATION

THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, ORDAINS:

Section 1

In this ordinance, ellipses indicate material not reproduced as the Council intends to leave that material in effect as it now reads.

Section 2

The Council amends the Longmont Municipal Code by adding the following chapter:

CHAPTER 6.70 – MARIJUANA STORES

6.70.010. - Purpose and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution, also commonly known as Amendment 64 of 2012, authorizes a system of state licensing for businesses engaging in the cultivation, testing, manufacturing, and retail sale of marijuana, collectively referred to as “marijuana establishments” by the constitution. Subsection 16(5)(f) of Article XVIII allows localities, within their respective jurisdictions: to prohibit operation of marijuana establishments; to regulate the time, place, and manner in which marijuana establishments may operate; and to limit the total number of marijuana establishments. The authority of localities to prohibit or regulate marijuana establishments within their respective jurisdictions, including the authority to engage in local licensing of marijuana establishments, is also reflected in various provisions of the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S., and other provisions of state law and regulations. The

1 purpose of this chapter is to exercise the authority of the city to allow state-licensed
2 marijuana establishments to exist in Longmont in accordance with applicable state laws
3 and regulations as well as the additional local licensing requirements and other restrictions
4 set forth herein. This chapter is adopted pursuant to the aforesaid constitutional and
5 statutory authority, as well as the city’s plenary authority as a home rule city to adopt and
6 enforce ordinances under its police power in order to preserve the public health, safety, and
7 general welfare.

8 **6.70.020. – Definitions**

9 The definitions set forth in subsection 16(2) of Article XVIII of the Colorado Constitution,
10 the Colorado Medical Marijuana Code, C.R.S. §12-43.3-104, as amended, the regulations
11 thereto at 1 CCR 212-1, as well as the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-
12 103, as amended, and the regulations thereto at 1 CCR 212-2, shall apply equally to this
13 chapter, unless the context clearly indicates otherwise, and except as specifically defined
14 below:

15
16 *Applicant* means any person who has submitted an application for a license to operate a
17 retail marijuana establishment to the local licensing authority.

18
19 *Cap* means the cap on the number of licenses in the city as described in section 6.70.070.

20
21 *Good cause*, for purposes of the refusing or denying a license renewal, means:

- 22 A. The licensee or applicant has violated, does not meet, or has failed to comply with
23 any of the terms, conditions, or provisions of any applicable state or local law, or any rule

1 and regulation adopted pursuant thereto, related to the cultivation, processing,
2 manufacture, storage, sale, distribution, testing or consumption of any form of marijuana;

3 B. The licensee or applicant has failed to comply with its approved plans or any special
4 term or condition placed on the license by order of the state licensing authority or the local
5 licensing authority;

6 C. Evidence the licensed premises have been operated in a manner that adversely
7 affects the public health, safety or the general welfare of the city or the immediate
8 neighborhood where the establishment is located, which evidence may include a continuing
9 pattern of violations of the terms and conditions of a license issued pursuant to this chapter,
10 a continuing pattern of unlawful or violent activity occurring in the location and in
11 association with the operation of the business, or other violations of this code; or

12 D. Evidence the licensee, or any principal officer, director, owner, manager, agent or
13 employee of the license is not of good moral character or has violated any provision of this
14 chapter or committed any unlawful act under this chapter.

15
16 *License* means a revocable privilege to lawfully operate a marijuana establishment pursuant
17 to this chapter.

18
19 *Licensed premises* means the premises specified in an application for a license this chapter,
20 which are owned or will be in the possession of the licensee and within which the licensee
21 is authorized to sell marijuana in accordance with all applicable laws.

22
23 *Licensee* means a person licensed pursuant to this chapter.

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Limited access area means a building, room, or other contiguous area upon the licensed premises where marijuana is stored, weighed, or packaged, under control of the licensee.

Liquid assets means assets that can be readily converted into cash, and includes assets that will be placed directly into the marijuana store. Liquid assets include, but are not limited to, funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, United States savings bonds, furniture and equipment, marijuana prepared for sale, and related products and inventory to be transferred to the marijuana store. “Liquid assets” does not mean household items, vehicles, marijuana plants, or real property or improvements thereto.

Manager means a business manager of a marijuana establishment as described in section 6.70.230(J).

Marijuana means and includes the following, as defined by 1 CCR 212-1 and 1 CCR 212-2: medical marijuana, medical marijuana concentrate, medical marijuana-infused product, edible retail marijuana product, retail marijuana, retail marijuana concentrate, and retail marijuana product.

Marijuana establishment or *marijuana store* means a facility licensed by the city and state to operate in the city as a retail marijuana store, or a co-located retail marijuana store and medical marijuana center, that distributes, dispenses, displays, sells, or otherwise provides

1 marijuana to consumers, patients or caregivers as authorized pursuant to section 16 of
2 article XVIII of the Colorado Constitution and other applicable state law.

3
4 *Moral character* means the degree to which a person's history demonstrates honesty,
5 fairness, and respect for the rights of others and for conformance to the law, which may
6 include considerations of whether an individual has:

7 A. Ever had a professional license denied, suspended, or revoked;

8 B. Ever had a business license denied, suspended, or revoked;

9 C. Ever surrendered, been denied, or had any type of marijuana-related business
10 license placed on an administrative hold, suspended or revoked;

11 D. Ever been denied any type of marijuana-related business license;

12 E. Ever had a business temporarily or permanently closed for failure to comply with
13 any tax, health, building, fire, zoning or safety law;

14 F. Ever had an administrative, civil or criminal finding of delinquency for failure to
15 file or failure to pay sales or use taxes or any other taxes;

16 G. Ever been convicted to a felony or other offense involving a crime of moral
17 turpitude; or

18 H. Within the previous twelve months been indicted, charged with or convicted of any
19 offense, whether a criminal felony, misdemeanor, petty offense or any local ordinance
20 violation related to the cultivation, processing, manufacture, storage, sale, distribution,
21 testing or consumption of any form of marijuana.

22

1 *Principal officer* means the chief executive officer, president, vice president, secretary,
2 treasurer, chief financial officer, chief operating officer, and executive director.

3
4 **6.70.030. – Relationship to State Law**

5 The provisions in this chapter that are different from the applicable state law are consistent
6 with the city’s responsibility to protect the public health, safety, and welfare as authorized
7 by applicable law, and by the home rule authority granted to the city by Article XX of the
8 Colorado Constitution and the municipal charter. The city intends that both state law and
9 this chapter apply within the city. In the event of a conflict between the provisions of this
10 chapter and the provisions of state law, the more restrictive provision shall control.

11 **6.70.040. – Marijuana Licensing Authority Established**

12 A. Creation. There is created a local marijuana licensing authority, hereinafter referred
13 to in this chapter as the “authority.” The municipal judge, or the judge’s designee, shall
14 act on behalf of the authority.

15 B. Selection Division. Within the authority, there is created a division, hereinafter
16 referred to in this chapter as the “selection division,” for the purpose of selecting licensees
17 among applicants for a license. The three members of the selection division shall be the
18 municipal judge or the judge’s designee, the chief of public safety or the chief’s designee,
19 and the director of community services or the director’s designee. The selection division
20 may adopt rules of procedure to govern its processes. The city attorney’s office shall advise
21 the selection division through its decision-making process.

22 C. Under no circumstances shall the authority receive or act upon any application for
23 local licensing of a marijuana establishment in circumstances where the state has failed to

1 act in accordance with section 16 of Article XVIII of the Colorado Constitution, it being
2 the intent of this article that no marijuana establishment may lawfully exist in the city
3 absent the issuance of a state license and full regulatory oversight of the establishment as
4 a retail marijuana store by the state as well as the city. Accordingly, the authority shall not
5 receive or act upon any application for licensing submitted independently and in lieu of
6 state licensing nor shall the authority grant any license if the state fails to act within 90
7 days on any specific application for licensing of a retail marijuana establishment in
8 accordance with paragraph 16(5)(g)(III) of Article XVIII of the Colorado Constitution.

9 D. Duties and powers of the authority. The authority shall have the power to grant or
10 deny an application pursuant to this chapter, and to impose any conditions on the applicant
11 or licensee related to the granting of the license. The authority shall have the authority to
12 administer oaths and issue subpoenas to require the presence of persons and the production
13 of papers, books, and records necessary to the determination of any hearing so held. The
14 authority may adopt rules of procedure regulating the conduct of its meetings and hearings.
15 The authority shall have the authority to approve or deny applications for license renewals,
16 transfers of ownership, changes of corporate structure, changes of location, modifications
17 of licensed premises or approved plans, and changes in manager registration. The authority
18 shall have the authority to summarily suspend a license pending a hearing. The authority
19 shall have the power, after hearing, to revoke or suspend any license, or to impose fines in
20 lieu of suspension, civil penalties, sanctions, or other conditions on the applicant, the
21 licensee, or the manager, relating to the license.

22 E. The city clerk or designee shall serve as the official secretary of the authority, who
23 shall provide the necessary notice of meetings and secretarial and reporting services for the

1 authority. The secretary shall receive all applications for licenses and shall issue all licenses
2 granted by the authority upon payment of fees required. The secretary shall keep the
3 electronic recordings of all licensing authority hearings. The secretary shall transcribe or
4 make arrangement for transcription of such records whenever required. The authority may
5 delegate any administrative matter to the secretary.

6 **6.70.050. – Licensing Authorized**

7 The authority may issue only marijuana store licenses as authorized by state law. No other
8 types of marijuana establishment may be licensed or may operate in the city. A marijuana
9 store license shall act as a retail marijuana store license and also as a medical marijuana
10 center license under the restrictions described in section 6.70.220.

11 **6.70.060. – License Required**

12 A. The license requirement set forth in this chapter shall be in addition to, and not in
13 lieu of, any other licensing and permitting requirements imposed by any other federal, state,
14 or local law, including, by way of example, a sales and use tax business license granted
15 and issued by the city, or any applicable zoning, development, or building permits.

16 B. The issuance of any license pursuant to this chapter does not create an exception,
17 defense, or immunity to any person in regard to any potential civil or criminal liability.

18 C. It shall be unlawful for any person to operate a marijuana establishment in the city
19 without obtaining a local license to operate pursuant to the requirements of this article
20 while concurrently holding a license in good standing from the state.

21 D. A separate license shall be required for each specific business and for each
22 geographic location.

23 **6.70.070. – Cap on Licenses**

1 The authority shall grant no license that would increase the number of active licenses in
2 the city to more than four.

3 **6.70.080. – Application Acceptance Periods**

4 A. Window for annexation referrals. No application for a license for a location outside
5 the city limits shall be considered unless, within 63 days of an announcement of a request
6 for expression of interest issued by the authority, the applicant has submitted all materials
7 required under the land development code for presentation of an annexation application to
8 the city council for referral. *See* Tit. 15, app. B, subsec. B(1). Applications for licenses
9 for locations outside the city must also comply with the time restrictions for applications
10 described in subsection (B), below.

11 B. Application window. No application for a license shall be considered for any
12 location, including one outside the city limits, unless within 63 days of an announcement
13 of a request for expression of interest issued by the authority, or such other amount of time
14 as set by the authority in its discretion, the city receives a proper and complete application
15 for a new license.

16 C. The authority may extend or waive any deadline or delay evaluation of applications
17 to the extent necessary to receive required application materials and fees from the state for
18 any application, so long as the applicant made application to the state for a state license
19 within 30 days of the opening of a local application window as described in subsection (B),
20 above.

21 **6.70.090. – Request for Expression of Interest**

22 The authority shall announce its first request for expression of interest as soon as it
23 determines it to be practicable. The authority may announce future requests for expression

1 of interest at future dates when fewer licenses are active than the cap number, under the
2 circumstances described in this chapter. The secretary of the authority shall post notice of
3 requests on the city's website. The secretary shall specify the start and end date and time of
4 the application period.

5 **6.70.100. – Application requirements**

6 A. All applications for a license shall be submitted to the secretary of the authority
7 upon forms provided by the authority and shall include all materials required for a new
8 license under state law and regulations. To the extent any materials have been included
9 with the applicant's state license application and forwarded to the city by the state licensing
10 authority, the authority may rely upon the information forwarded from the state without
11 requiring resubmittal of the same materials to the authority. The authority may, in its
12 discretion, require additional documentation associated with the application, including any
13 other information that may be relevant, as may be necessary to enforce the requirements of
14 state law and this code.

15 B. Complete applications. For purposes of this chapter an application for a license
16 shall not be considered complete until the authority has (i) determined that all requirements
17 of the application have been provided to the city, (ii) received the local share of the
18 application fee from the state, and (iii) obtained all other information the authority
19 determines necessary to make a decision whether to approve or deny the license
20 application, or approve it with conditions.

21 C. All applications may be subject to disclosure under the Colorado Open Records
22 Act. Each application shall include a public version of the application, with all information
23 redacted that the city is prohibited from releasing under the Act, in a format designated by

1 the authority. The city reserves the right, however, to release all records and parts of
2 records required by the Act, even if the applicant has proposed such records or parts of
3 records for redaction. The selection division shall consider, as a factor in its decision-
4 making process related to the completeness and forthrightness of the application, the extent
5 to which the applicant has proposed for redaction records or parts of records that are
6 properly public and subject to disclosure under the Act.

7 D. The authority may promulgate and make available forms for different types of
8 applications under this chapter, and if a form exists for a particular type of application, the
9 authority shall not consider such application unless it includes such completed form. Along
10 with or as a part of such forms, the authority may specify page or word limits for
11 applications or any part of any application as it determines necessary to ensure an orderly
12 process.

13 E. No location shall serve as the proposed location for more than one application.

14 F. No person shall apply for more than one license in any location in the city. No
15 owner of any business applying for a license or in possession of a license within the city
16 may apply for, or be an owner of any other business entity applying for, another license
17 within the city.

18 G. Every applicant and licensee under this chapter shall be deemed, by virtue of
19 applying for, holding, or renewing a license, to have expressly consented to the procedures
20 set forth in this chapter.

21 **6.70.105. – Locational requirements**

1 No application for a license or for a change of location shall be granted which proposes a
2 licensed premises within 250 feet of a residentially zoned area or within 1000 feet of any
3 school serving students in any grade from kindergarten thru 12th grade, inclusive.

4 **6.70.110. – Submittal requirements for a new license**

5 Each application for a license shall include:

6 A. A cover letter providing an overview of the proposed establishment and reasons the
7 applicant has chosen to locate in Longmont.

8 B. All applicable fees, including any annual operating fee due for the first year of
9 operations. The city shall not retain, or shall refund, the annual operating fee if the
10 application is not selected for approval.

11 C. Copies of background checks, photo identification, and fingerprints of all
12 applicants and owners of the applicant entity, as well as a statement of all violations and
13 penalties for any infractions or offenses by the applicant or applicant's owners, principal
14 officers, managers, or employees relating to any marijuana establishment in the state or a
15 statement that no such violations or penalties have occurred.

16 D. A site control plan, including:

17 1. A detailed description, floor plan, and vicinity map of the proposed location,
18 including a full address.

19 2. A general description of site improvements proposed and the land
20 development approvals required therefor.

21 3. A zoning verification letter from the planning and development services
22 department.

1 4. Demonstration that the applicant has control of the site, for example by
2 property ownership or lease, for at least one year's duration. If the applicant does not own
3 the property, the applicant shall provide a letter from the property owner(s) expressly
4 approving the use of the property as a marijuana store.

5 E. A business plan, including the following:

6 1. A general description of the business, a market analysis, and a marketing
7 plan.

8 2. Details of overall management and operations including hours of operation,
9 curricula vitae of all business owners, and staffing plans, including any specific
10 commitments of the licensee toward staffing the establishment with a diverse workforce of
11 Longmont residents.

12 3. Financial information demonstrating a formalized relationship with an
13 established financial institution, demonstrated liquid assets of \$250,000 in the applicant's
14 control, financial projections including assumptions used, and sources of funds.

15 4. A description of the applicant's experience operating licensed marijuana
16 businesses in Colorado or elsewhere, including compliance with state and local laws or
17 violations thereof.

18 5. An indication of whether the marijuana store would sell retail or both retail
19 and medical marijuana.

20 F. Security Plan. All licensees shall file a written security plan with the authority. The
21 security plan will be protected from public disclosure to the extent provided under the
22 Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. The written security plan
23 shall address, at a minimum, the following elements:

1 1. Evidence that the premises will comply with all security and video
2 surveillance requirements set forth in this charter, Rules 305 and 306 of the Code of
3 Colorado Regulations 1 CCR 212-2 (Retail Marijuana Code) and Rules 305 and 306 of the
4 Code of Colorado Regulations 1 CCR 212-1 (Medical Marijuana Code), if applicable;

5 2. A site plan showing the entire vicinity in which the marijuana establishment
6 is located, including the street(s), parking lot(s), other tenants within the property, and any
7 other entities that physically border the establishment;

8 3. A floor plan of the marijuana establishment detailing the locations of the
9 following:

10 a. All entrances and exits to the establishment;

11 b. The location of any windows, skylights, and roof hatches;

12 c. The location of all cameras, and their field of view;

13 d. The location of all alarm inputs (door contacts, motion detectors,
14 duress/hold up devices) and alarm sirens;

15 e. The location of the digital video recorder and alarm control panel, including
16 the location of the off-site storage or network service provider for storage of the
17 required copies of surveillance recordings; and

18 f. Restricted and public areas.

19 4. The type of security training provided for, and completed by, establishment
20 personnel, including conflict resolution training and procedures for handling violent
21 incidents;

22 5. How the licensee intends to use and maintain an incident log;

- 1 6. The establishment's procedures for preventing the use of marijuana on the
- 2 licensed premises;
- 3 7. Security measures taken by the licensee to prevent individuals from entering
- 4 the limited access area portion of the licensed premises;
- 5 8. The licensee's closing procedures after the cessation of business each day;
- 6 9. The licensee's plan to prevent theft or the diversion of marijuana, including
- 7 maintaining all marijuana in a secure, locked room that is accessible only to authorized
- 8 persons;
- 9 10. The type of alarm system and outdoor lighting to be used by the licensee;
- 10 11. The licensee's procedures for accepting delivery of marijuana at the
- 11 establishment, including procedures for how it is received, where it is stored, and how the
- 12 transaction is recorded;
- 13 12. A copy of the licensee's security alarm system monitoring contract;
- 14 13. A lighting plan showing the lighting outside of the marijuana establishment
- 15 for security purposes and compliance with applicable city requirements;
- 16 14. A landscaping plan showing the landscaping outside of the marijuana
- 17 establishment for security purposes and compliance with applicable city requirements;
- 18 15. A plan for disposal of any marijuana that is not sold; and
- 19 16. A plan for preventing underage persons from entering the premises.
- 20 G. A community outreach plan, including:
- 21 1. The applicant's history of community and neighborhood involvement with
- 22 other similar businesses;

1 2. Written policies and procedures to address community concerns and
2 complaints;

3 3. A designated point of contact, with comprehensive contact information, for
4 public questions and concerns; and

5 4. Measures and procedures for mitigating any impacts to the neighborhood,
6 foreseen or unforeseen.

7 H. An odor management plan preventing any odor from the licensed premises from
8 being perceptible to an ordinary person at the exterior of the building of the licensed
9 premises or at any space adjoining the licensed premises.

10 I. A description of how the licensee and licensed establishment would contribute to
11 and support the overall vision, values and goals identified by the City and specified in
12 adopted city plans such as Envision Longmont and the Sustainability Plan. This
13 information may be included in the cover letter rather than as a separate document.

14 J. Separation information. A description and graphic representation of the location of
15 the proposed licensed premises relative to the nearest residentially zoned area and the
16 nearest school serving students in any grade from kindergarten thru 12th grade, inclusive.

17 K. A public version of the application, as described in section 6.70.110(C).

18 **6.70.120. – Application review process for new licenses**

19 A. Initiation. The authority shall begin a process of selecting new licensees by issuing
20 a request for expression of interest. Within the timeframe set by such a request, any person
21 may submit an application for a license. At the close of the application window, the
22 authority shall post the public version of each application on the city's website.

1 B. Comment. Any person may comment on the received applications for the record
2 during the 21-day period following the posting of the public versions of the applications
3 on the city's website. The secretary of the authority shall post notice of such comment
4 period, also on the city's website. The authority may extend the comment period as
5 necessary, in its determination, to elicit robust public comment. The authority may restrict
6 the form and manner of public comment so as to provide for an orderly process and to
7 foster the pertinence of comments to the selection factors described in paragraph (C)(2),
8 below. City departments, including but not limited to the community services department,
9 the planning and development services department, the public safety department, the
10 finance department, and the city clerk's office, may also file recommendations on the
11 applications with the authority. Members of these departments who are also members of
12 the selection division shall not participate in the formulation or submission of such
13 recommendations.

14 C. Selection.

15 1. From among the applications received, the selection division shall select
16 applications to which to award a conditional license. The number of such conditional
17 licenses, in addition to the number of active licenses within the city, shall not exceed the
18 cap. The selection division shall make its selections based on a multi-factor balancing test,
19 considering the totality of the circumstances, with the overall goal of selecting those
20 applications which, taken together and in consideration of any active licenses within the
21 city, provide the greatest benefit to the city and its inhabitants by offering and maintaining
22 the safest environment, the best service, and the fewest negative impacts to the community.

1 2. Factors. The following are factors the selection division shall consider and
2 weigh in making this determination:

3 a. Whether the application is for a location already licensed by the state and
4 serving as a retail marijuana store outside the city and proposed to be annexed into the city,
5 which factor shall be weighted heavily;

6 b. The applicant's experience operating a licensed marijuana business in
7 Colorado, including compliance with state and local laws, or violations thereof;

8 c. The degree of moral character of the applicant and the applicant's principal
9 officers, directors, owners, managers, and employees;

10 d. The impact of the proposed establishment on the neighborhood surrounding
11 the proposed location, the community as a whole, and the natural environment, and the
12 applicant's commitment to take specific measures to mitigate such impacts;

13 e. The convenience of the proposed location to the residents of the city,
14 considering any synergies, redundancies, or conflicts posed by the proposed locations of
15 other marijuana store applications and existing marijuana establishments;

16 f. The compatibility of the proposed location with the surrounding properties,
17 including aesthetic considerations;

18 g. The apparent conformity of the application to the zoning of the proposed
19 location, as an initial matter and with the understanding that full land use review would
20 follow the award of a conditional license;

21 h. The diversity of retail choices the applications would bring to the city;

22 i. The applicant's ability to demonstrate, through a business plan, its ability to
23 operate and develop the proposed establishment in a highly regulated industry;

1 j. The applicant’s demonstrated ability to operate an effective and lawful
2 analogous business in the city;

3 k. Diversity of ownership of licenses, including consideration of ownership of
4 any active licenses or establishments outside but near the city limits;

5 l. The quality and detail of the proposed security plan, business plan,
6 community outreach plan, and other application materials;

7 m. The clarity and duration of the applicant’s site control of the proposed
8 location;

9 n. The potential for crime in the proposed location;

10 o. The degree of detail and completeness provided in the application, and the
11 extent to which the application includes false or misleading information; and

12 p. Any other unique benefits the application would present to the inhabitants
13 of the city and any other factors that may be relevant.

14 3. Grounds for denial. Any application may be denied which violates any of
15 the following restrictions:

16 a. No applicant may submit more than one application in response to any
17 request for expression of interest.

18 b. No location shall serve as the proposed location for more than one bona fide
19 application in response to any request for expression of interest.

20 D. Should the authority receive fewer applications than the maximum the authority
21 is authorized to award, or should fewer than such maximum demonstrate an acceptable
22 level of satisfaction of the factors listed in paragraph (C)(2), the authority may award fewer
23 licenses than such maximum.

1 E. Selection Order. The authority shall issue a written order stating the determinations
2 of the selection division and a brief explanation of the basis thereof, and awarding any
3 conditional licenses as determined by the selection division. Licenses shall be considered
4 approved, but shall have no effect under this chapter until they are finalized as described
5 below. The secretary of the authority shall post selection orders online, shall notify the
6 public thereof by publication, and shall notify each affected applicant by mail at the address
7 on the application.

8 F. Land use review. No license shall become final until the director of planning and
9 development services, or designee, certifies to the authority that the conditional licensee
10 has received all necessary approvals under the land development code (not including
11 permits and approvals required under title 16 of this code) to begin operating within the
12 city as described in the application. As an exception to the provisions of the land
13 development code, decisions of the planning and development services director on
14 application approvals necessary to begin operating within the city as described in the
15 license application shall be final and shall not be appealable to any city body, but shall be
16 reviewable under Rule 106 of the Colorado Rules of Civil Procedure.

17 G. Lapse.

18 1. Any conditional license for a location within city limits that does not receive
19 the certification described in subsection (F) within twelve months of the award of the
20 conditional license shall lapse and be of no further effect.

21 2. Any conditional license for a location outside city limits that does not
22 receive such certification, including certification of annexation, within eighteen months of
23 the award of the conditional license shall lapse and be of no further effect.

1 3. No alleged delay on the part of any city staff shall be a defense against lapse
2 under this subsection. Conditional licensees are encouraged to submit full and complete
3 land use applications as early as possible.

4 H. Final license. Upon receiving the certification described in subsection (F) for a
5 conditional license, passage of a final inspection as described in section 6.70.230(K)(2),
6 and receipt of all applicable fees due, the authority shall issue a final license allowing a
7 marijuana store.

8 **6.70.130. – Lapse after licensure**

9 A. Should any licensed premises fail to open for business as a retail marijuana
10 establishment, with all necessary local permits approved, within six months of final
11 licensure, or should any licensed premises thereafter discontinue retail marijuana
12 operations for 35 days or more, the license shall lapse and be of no further force and effect.
13 The authority may confirm such lapse by order. No alleged delay on the part of any city
14 staff shall be a defense against lapse under this section. Conditional licensees are
15 encouraged to secure building permits, certificates of occupancy, and other municipal
16 approvals as early as possible.

17 B. Exception for modification of premises. After receiving approval from the
18 authority for a modification of premises under section 6.70.180, the licensee may
19 discontinue retail operations for a period of six months from the date of such approval
20 without causing such license to lapse.

21 **6.70.135. – Extensions of lapse deadlines due to hardship; requirement of due**
22 **diligence**

1 Whenever it appears that a conditional or final licensee will be unable to meet the
2 prescribed limitations of section 6.70.120(G) or 6.70.130, the licensee may seek an
3 extension of such deadlines from the authority. Any application for such an extension shall
4 include an affidavit describing the applicant's due diligence and hardship, and shall be filed
5 at least 35 days prior to the applicable deadline. The applicant shall demonstrate to the
6 authority the progress being made toward the commencement of business at the licensed
7 premises, the due diligence on the part of the applicant, and the reasons why the premises
8 have not been completed. The authority shall consider the applicant's affidavit and, if
9 satisfied that the applicant is suffering a bona fide hardship and diligently making progress
10 toward overcoming it, shall extend the applicable deadline for an additional period. The
11 additional period shall not exceed one year, and shall be no longer than necessary to afford
12 relief. The authority shall not grant an extension for a self-imposed hardship. Under no
13 circumstances shall the authority grant more than two extensions to the same deadline for
14 any licensed premises.

15 **6.70.140. – Hearings**

16 The authority is authorized to conduct any hearing required by provisions of the Colorado
17 Constitution or state or local laws related to marijuana establishment licensure in the city,
18 or as it deems necessary to make determinations under this chapter. Under no
19 circumstance, however, shall the authority issue a license for an application not selected
20 for approval by the selection committee, nor issue any order that might allow the number
21 of marijuana stores within the city to exceed the cap. The authority shall require any notice
22 of hearings required by state law.

23 **6.70.150. – Duty to supplement information**

1 A. If, at any time before or after a license or other approval is issued pursuant to this
2 chapter, any information required by state or local law or regulations changes in any way
3 from that which is stated in any application, the licensee shall supplement such information
4 in writing to the authority within 14 days from the date upon which such change occurs.

5 B. An applicant or licensee has a duty to notify the authority in writing of any pending
6 criminal charge, and any criminal conviction of a felony or other offense involving a crime
7 of moral turpitude by the applicant, any owner, principal officer, manager, or employee
8 within 14 days of the event.

9 C. An applicant or licensee has a duty to notify the authority in writing of any pending
10 criminal charge, or any criminal conviction, whether a felony, misdemeanor, petty offense,
11 or any violation related to the cultivation, processing, manufacture, storage, sale,
12 distribution, testing or consumption of any form of marijuana, or any building, fire, health
13 or zoning statute, code or ordinance related to the cultivation, processing, manufacture,
14 storage, sale, distribution, testing or consumption of any form of marijuana, by the
15 applicant, any owner, principal officer, manager, or employee within 14 days of the event.

16 **6.70.160. – Transfer of ownership and changes in business structure**

17 For the purposes of this section, a transfer of ownership shall also include any reallocation
18 of ownership or change in business structure necessitating an application for transfer of
19 ownership or change in business structure under state law, including 1 CCR § 212-2 Rule
20 R 205. A transfer of ownership of any license issued pursuant to this chapter shall be
21 prohibited for two years after the date the final license is issued by the city, except in the
22 event of the death, or disability preventing management of the store, of a licensee. Any
23 transfer of ownership of any city license issued more than two years after the date the

1 license was issued, or in the event of the death, or disability preventing management of the
2 store, of a licensee, shall be governed by the procedures set forth for transfers of ownership
3 under state law. No such change of ownership may occur except upon the authority's
4 approval of a local application for the change. Any such application shall include all of
5 the information required by this chapter for all proposed owners for a license application.
6 Upon receipt of such application, the authority shall schedule a hearing thereon, and shall
7 notify the city manager of such hearing and afford city staff the opportunity to comment
8 on the application in writing or at the hearing. The authority shall conduct the hearing and
9 grant the application if the application is complete and meets the following standards:

10 A. No person shall be permitted to become an owner of any license if that
11 person already is an owner of any license within the city.

12 B. No transfer of ownership shall be approved by the authority until all taxes,
13 fees, fines, penalties, and interest assessed against or imposed upon such licensee and due
14 to the city in relation to the licensed business are paid in full.

15 C. All proposed owners' moral character, record, and reputation are
16 satisfactory to ensure safe, lawful, and effective management of the marijuana
17 establishment.

18 **6.70.170. – Change of location**

19 A. No license may be transferred to another location except upon approval of an
20 application for such transfer. The application shall include all of the submittal materials
21 required for an application for a new license. Upon receipt of such application, the
22 authority shall schedule a hearing thereon, and shall notify the city manager of such hearing
23 and afford city staff the opportunity to comment on the application in writing or at the

1 hearing. The authority shall conduct the hearing and grant the application if the application
2 is complete and the applicant proves that the change of location will not negatively impact
3 the neighborhood surrounding the new location and will in fact benefit the community as
4 a whole. This approval shall be required in addition to any other approvals required by
5 other provisions of the municipal code, and such other municipal applications shall proceed
6 under generally applicable procedures including any appeal procedures. A granted
7 application shall allow the transfer on the conditions applicable to an award of a new
8 conditional license, including but not limited to the provisions of sections 6.70.120(F)-(H)
9 and 6.70.130. All requirements and provisions related to renewal and lapse of a license
10 shall apply regardless of the initiation or progression of these proceedings to change a
11 license's location.

12 B. Time limitation on change of location.

13 1. In general. The authority shall grant no application to change a license's
14 location within two years of the original final licensure or of a prior change of the license's
15 location.

16 2. Exception. The application for change of location may include an affidavit
17 describing a particular hardship preventing the continuation of marijuana sales at the
18 location. The authority shall consider the applicant's affidavit and, if satisfied that the
19 applicant is suffering a bona fide hardship preventing the continuation of marijuana sales
20 at the location, and that the hardship is not self-imposed, shall allow an exception to the
21 general provision of paragraph (1), above.

22 **6.70.180. – Modification of premises or change of plan**

1 A licensee shall not make changes, alterations, or modifications to the licensed premises,
2 or practices related thereto, that materially or substantially alter the licensed premises or
3 the usage of the licensed premises from the plans originally approved by the authority
4 without submitting an application for such change, alteration, or modification, and
5 obtaining the approval of the authority to make such proposed modifications. Upon receipt
6 of such application, the authority shall schedule a hearing thereon, and shall notify the city
7 manager of such hearing and afford city staff the opportunity to comment on the application
8 in writing or at the hearing. The authority shall conduct the hearing and shall grant the
9 application if the applicant proves that the modification will not negatively impact the
10 surrounding neighborhood or the community as a whole. This approval shall be required
11 in addition to any other approvals required by other provisions of the municipal code, and
12 such other municipal applications shall proceed under generally applicable procedures
13 including any appeal procedures.

14 **6.70.190. – Terms of licenses; renewals**

15 A. Beginning with the date of approval and conditional licensure, any license issued
16 pursuant to this chapter shall be valid for a period of one year. Notwithstanding anything
17 contained in this chapter, a licensee has no vested right to the renewal of a license, and no
18 property right in the renewal of a license. Licenses that are the subject of a suspension, a
19 disciplinary action, a lapse deadline extension, or any other proceeding under this chapter
20 are subject to the requirements of this section. Licenses that are not timely renewed shall
21 expire. The authority shall take no action on any renewal of any license except as described
22 in this section.

1 B. A licensee may apply for the renewal of an existing license by filing an application
2 for renewal on forms provided by the authority not less than 28 days but not more than 91
3 days prior to the expiration of the license. An application for renewal will only be accepted
4 if it is accompanied by the requisite fees and any supplemental materials required by the
5 authority. If the licensee fails to apply for renewal at least 28 days prior to the expiration
6 of the license but does apply prior to the expiration of the license, the authority may process
7 the renewal application if the applicant submits a late filing fee, in addition to the renewal
8 application fee, at the time of submittal of the renewal application. The authority may elect
9 to administratively continue the license beyond the expiration date while a renewal
10 application is pending, but in no event shall the license be administratively continued for
11 more than 63 days. Notwithstanding the foregoing, the licensee may also apply for license
12 renewal early if necessary to align the local license renewal with any state license renewal
13 process.

14 C. The city shall not accept renewal applications after the expiration date of the
15 license. In the event the license is not renewed prior to expiration, the marijuana
16 establishment shall not operate, and the license shall be considered expired and terminated.

17 D. Grounds for denial. The following constitute grounds for denial of a license
18 renewal application:

- 19 1. The authority may deny a license renewal for good cause.
- 20 2. The authority shall not renew any license that has lapsed.
- 21 3. The authority shall not renew any license until the licensee has paid the
22 annual operating fee, if any has been established by the city council, for the following year

1 and until all other taxes, fees, fines, penalties, and interest assessed against or imposed
2 upon such licensee and due to the city in relation to the licensed business are paid in full.

3 4. The authority shall not renew any license if the licensee has made any
4 materially false statement in any license or renewal application.

5 5. The authority shall not renew any license if the licensee has failed to
6 maintain a valid state-issued license, or does not or cannot meet the requirements of
7 applicable state or local laws or regulations.

8 E. Upon receipt of a renewal application, the authority shall forward the application
9 to city manager and give city staff an opportunity to comment on the application. If
10 necessary in the authority's determination, the authority may hold a hearing on the
11 application. Administratively or following such hearing, the authority shall issue a
12 decision on the renewal application. Approval of an application for renewal shall renew
13 the license for a period of one year from the original expiration date of the prior licensure
14 or license renewal period, as applicable.

15 **6.70.200. – Licensing new premises upon deactivation of a license**

16 A. If at any time fewer licenses than the cap are active or capable upon satisfaction of
17 conditions of becoming active, by such an event as a lapse, a failure to renew, a voluntary
18 and irrevocable termination of a license submitted by the licensee to the authority, or a
19 revocation, the authority shall proceed as set forth in this section to award licenses to bring
20 the total number of active licenses to the cap number.

21 B. The authority shall not proceed with selection of new licensees until all
22 opportunities for the prior licensee to reinstate its license, including by a procedurally
23 appropriate court challenge, have been exhausted.

1 C. After such exhaustion, the authority shall convene the selection division, and the
2 selection division shall determine whether the applications it has on file in response to the
3 most recent request for expression of interest are recent enough that any such application,
4 if approved, would reasonably be capable of complete implementation by the applicant
5 despite the passage of time. If so, the selection division shall proceed directly to the
6 selection phase of the application review process, as described in section 6.70.110(C). If
7 not, the selection committee shall open a new selection phase with a request for expression
8 of interest, followed by a comment period, as described in section 6.70.110.

9 D. In either case, the selection committee shall award new licenses under the
10 remaining procedures described in section 6.70.110.

11 **6.70.210. - Fees**

12 A. Fees shall be applied only in the circumstances allowed under the Colorado
13 Constitution and applicable state and local laws and regulations. Annual operating fees
14 shall apply as a condition of receiving a conditional license and on each annually-required
15 license renewal.

16 B. The council may by resolution set fees relating to applications, reviews,
17 reports, licensing, and operations governed by this chapter. Applicants and licensees shall
18 pay all such applicable fees.

19 **6.70.220. – Medical marijuana center operations permitted under license**

20 Each license granted under this chapter shall constitute a local license for a retail marijuana
21 store, and shall also constitute a local license to operate a medical marijuana center at the
22 licensed location under article 43.3 of title 12 of the Colorado Revised Statutes provided
23 that the licensed location continues to make retail marijuana available to the public at the

1 location. Lapse, suspension, revocation, or failure to obtain a necessary renewal of a local
2 license under this chapter shall constitute good cause for the refusal of the city to allow
3 medical marijuana center operations to continue under the license. The licensee must
4 comply with all state laws and regulations governing the sale of retail marijuana at the
5 licensed premises, and, if the licensee also sells medical marijuana, all state laws and
6 regulations governing the sale medical marijuana at the licensed premises.

7 **6.70.230. – Operational requirements**

8 All marijuana establishments shall comply with the applicable state and local rules and
9 regulations, as amended from time to time, including as stated in the Code of Colorado
10 Regulations 1 CCR 212-2 (Retail Marijuana Code) and 1 CCR 212-1 (Sales,
11 Manufacturing, and Dispensing of Medical Marijuana). In addition, licensees shall comply
12 with the following local operational regulations. Failure to comply with any state law or
13 regulation or any of the following operational regulations may be grounds to suspend or
14 revoke any license, or for the imposition of civil penalties where applicable.

15 A. Minimum standards. A marijuana establishment shall not be permitted to operate
16 until the licensee has acquired all of the necessary permits, licenses, and authorizations,
17 including a certificate of occupancy, and demonstrates implementation of the requirements
18 of this section.

19 B. Compliance with plans. Marijuana establishments shall fully comply with the
20 security plan, community outreach plan, and any sustainability or employment plan
21 approved by the authority for the location.

1 C. Video surveillance. Marijuana establishments are required to install a video
2 surveillance system satisfying the minimum standards described below, in addition to the
3 state requirements set forth in Rule 306 of 1 CCR 212-2 (Retail Marijuana Code):

4 1. All surveillance recordings shall be retained for a minimum of 60 days and
5 shall be in a digital format that can be easily accessed for viewing and that ensures
6 authentication of the recording as being legitimately captured without alterations.

7 2. In addition to maintaining surveillance recordings in a locked area on the
8 licensed premises, a copy of the surveillance recordings must be stored at a secure off-site
9 location or through a network "cloud" service that provides on-demand access to the
10 recordings. The off-site location or network service provider shall be included in the
11 security plan submitted to the city and updated within 72 hours of any change to the
12 location or provider.

13 3. Video surveillance records and recordings must be made available
14 immediately upon request of the authority or the city department of public safety.

15 4. If video surveillance or storage equipment becomes inoperable, or storage
16 network service becomes disabled, the marijuana establishment shall cease all transactions
17 until the equipment or network service is made operable.

18 D. Security alarm system. All marijuana establishments shall install, maintain, and use
19 a professionally monitored security alarm system meeting the following requirements:

20 1. The system shall provide coverage of all facility entrances and exits, rooms
21 with exterior windows, rooms with exterior walls or walls shared with other building
22 tenants, roof hatches, skylights, and storage rooms containing safes or vaults;

1 2. The system shall include at least one silent holdup or duress alarm that can
2 be manually triggered in case of emergency;

3 3. The alarm system must be equipped with a failure notification and a battery
4 backup system sufficient to support a minimum of four hours in the event of a power
5 outage;

6 4. The alarm system must be monitored by a company that is staffed 24 hours
7 a day, seven days a week. The security plan submitted to the city shall identify the company
8 monitoring the alarm, including contact information, and shall be updated within 72 hours
9 in the event the monitoring company is changed; and

10 5. The licensee shall maintain for a period of three years reports of any
11 incidents triggering an alarm, and such reports shall be made available to the city during
12 any inspection of the facility.

13 E. Secured storage. All marijuana establishments must install a safe or vault for
14 storage of cash on the premises when the business is closed to the public. The safe or vault
15 must be incorporated into the building structure or secured to the structure in such a manner
16 as to prevent removal.

17 F. Proof of age. The business shall verify the proof of age of every person entering the
18 licensed premises or completing a sale therein, by a form of valid identification listed in 1
19 CCR § 212-2.404(A).

20 G. Odor management. For all marijuana establishments, the odor of marijuana must
21 not be perceptible to an ordinary person at the exterior of the building of the licensed
22 premises or in any space adjoining the licensed premises.

1 H. Hours of operation. Marijuana establishments may only be open to the public
2 between the hours of 8:00 a.m. and 10:00 p.m., daily. No sale, delivery, or other distribution
3 may occur upon the premises outside of those hours. Hours of operation must be posted at
4 the main entry of the store.

5 I. Documents to be displayed. All marijuana and sales tax licenses shall be
6 conspicuously posted inside the establishment near the main entrance.

7 J. Registered manager. No marijuana establishment shall be operated or managed by
8 any person other than the licensee, with the exception of a manager registered with the
9 authority. Such licensee or manager shall be on the premises and responsible for all
10 activities within the licensed business during all times when the business is open. In the
11 event the licensee intends to employ a manager who was not identified on the license
12 application, the licensee shall report the name of such manager to the authority, and such
13 manager shall submit to the authority, at least 28 days prior to serving as a manager, an
14 application containing all of the information required for a manager by this chapter on a
15 license application, and shall submit the requisite fees. A licensee shall report to the
16 authority any change in managers at least 28 days prior to employing an additional
17 manager, and no more than five days after a manager is released from such position. Any
18 timely report of a change in manager may be approved administratively. However, after a
19 hearing, the authority may refuse to accept any person's registration as a manager upon a
20 determination that the person's moral character, record, or reputation is unsatisfactory to
21 ensure safe, lawful, and effective management of the marijuana establishment.

22 K. Inspections.

1 1. Grant of authorization. By signing and submitting a license application, the
2 applicant/licensee certifies that the applicant/licensee has received permission from the
3 property owner to allow inspections as may be required under state or local licensing law.
4 In addition, the owner of the premises authorizes city staff designated by the city manager
5 to enter upon and inspect the premises upon presentation of official credentials. These
6 inspections are part of the routine policy of inspection and enforcement of these regulations
7 for the purpose of protecting the public safety, individuals operating and using the services
8 of the marijuana establishment, and the adjoining properties and neighborhood. This rule
9 shall not limit any inspection authority authorized under any other provision of law or
10 regulation, including those of police, fire, building, and code enforcement officials.

11 2. Initial inspection. The city shall inspect all marijuana establishments prior
12 to final issuance of a license to verify that the facilities are constructed and can be operated
13 in accordance with the application submitted and the requirements of laws of the city and
14 the state. The initial inspection shall occur after the marijuana establishment is ready for
15 operation, but a license that has not yet been become final shall not entitle the licensee to
16 allow marijuana to be present on the premises before the inspection is complete.

17 3. Regular inspections. At a minimum, the city shall be authorized to perform
18 regular inspections on a quarterly basis during the first year following licensure, and on a
19 yearly basis prior to license renewal following the first year of operation.

20 4. Random inspections. The regular licensing inspection procedures described
21 shall not prevent the city from inspecting marijuana establishments at random intervals and
22 without advance notice.

1 5. Inspection of records. Upon request, the licensee or manager on duty shall
2 retrieve and provide any relevant business records pertaining to the inspection, including
3 but not limited to, security camera recordings, marijuana inventory manifests, and copies
4 of invoices and receipts. The city may require any licensee to furnish such information as
5 it considers necessary for the proper administration of these regulations.

6 L. Reporting of source, quantity, and sales. The records to be maintained by each
7 marijuana establishment shall include the source and quantity of any marijuana distributed,
8 produced, or possessed within the premises. Such reports shall include the following
9 information, at a minimum, for both acquisitions from wholesalers and retail sales
10 transactions:

11 1. Date, weight, type of marijuana, and dollar amount or other consideration
12 of transaction;

13 2. For wholesale transactions, the sales and use tax license number of the seller
14 from the State of Colorado and city, if any; and

15 3. The amount of marijuana within the marijuana establishment.

16 Each year, with the licensee's application for license renewal, the licensee shall submit a
17 report to the authority with this information for the prior operational year. The secretary
18 of the authority may designate the form of the report.

19 M. Reporting of criminal activity. Reports of all criminal activities or attempts of
20 violation of any law at the marijuana establishment, including the curtilage surrounding the
21 licensed premises and the designated parking area, or related in any way to the marijuana
22 business, shall be reported to the city department of public safety by the licensee within 12
23 hours of occurrence. Additionally, any violation of any law by any licensee, owner,

1 manager, principal officer, or applicant of the marijuana business shall be reported to the
2 authority within 72 hours.

3 **6.70.240. – Unlawful acts**

4 A. It shall be unlawful for any person under 21 years of age to be on or within the
5 limited access area of any marijuana establishment.

6 B. It shall be unlawful for any person to engage in any form of business or commerce
7 or activity involving the cultivation, processing, manufacturing, storage, sale, distribution,
8 testing, or consumption of any form of marijuana other than those forms of businesses and
9 commerce and activities expressly contemplated by state law and this chapter.

10 C. It shall be unlawful for any person to display, transfer, distribute, serve, sell, give
11 away, allow consumption of, or dispose of any marijuana in a public place.

12 D. It shall be unlawful for any person who is the holder of a license issued pursuant to
13 this chapter or any manager or employee of such licensee to fail to immediately report to
14 the department of public safety any disorderly conduct or criminal activity occurring at the
15 location, on the premises, or within the licensed premises set forth on the license. For the
16 purposes of this subsection, the terms “location” and “premises” shall have that meaning
17 and definition set forth in C.R.S. § 12-43.4-103, and the term “licensed premises” shall
18 have the meaning and definitions set forth in this chapter, and the term “report” shall mean
19 to either:

20 1. Immediately, verbally, and directly in person notify any on-site uniformed
21 police officer;

22 2. Place and complete a phone call to the non-emergency dispatch telephone
23 number for the department of public safety; or

1 3. Place and complete a telephone call to the emergency 911 operator.
2 Contacting individual officers out of uniform or not directly on the licensed premises shall
3 not suffice as a report within the meaning of this subsection.

4 E. It shall be unlawful for any person to be an owner of more than one marijuana store
5 licensed pursuant to this chapter.

6 F. It shall be unlawful for any person to exercise any of the privileges granted by a
7 license other than the person issued the license.

8 G. It shall be unlawful for any person granted a license to allow any other person to
9 exercise any privilege granted under their license.

10 H. It shall be unlawful for any person to operate or be in physical control of any
11 marijuana establishment while under the influence of any intoxicant, including but not
12 limited to marijuana, fermented malt beverage, malt, vinous, or spirituous liquor, or a
13 controlled substance.

14 I. It shall be unlawful to possess extraction vessels, or butane, propane, compressed
15 CO₂, ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used
16 in the production of solvent-based marijuana concentrate, on the licensed premises.

17 J. It shall be unlawful to violate or permit any person to violate any provision of this
18 chapter or any condition of approval placed upon a license granted pursuant to this chapter,
19 or any law, rule or regulation applicable to the use of marijuana or the operation of a
20 marijuana establishment.

21 K. It shall be unlawful to operate a marijuana establishment without a license from the
22 city and the state.

1 L. It shall be unlawful to operate a marijuana establishment in a manner that is not
2 consistent with the application, or is in violation of any plan or condition made part of the
3 license application.

4 M. It shall be unlawful to operate a marijuana establishment without obtaining and
5 passing all building inspections and obtaining all permits required by the city.

6 N. It shall be unlawful to operate a marijuana establishment in violation of any
7 building, fire, zoning, plumbing, electrical, or mechanical codes as adopted and amended
8 by the city.

9 O. It shall be unlawful to modify or allow any modification to the licensed premises
10 without approval of the authority.

11 P. It shall be unlawful to use or display a license at a different location or for a different
12 business entity than in the location and business entity disclosed on the application for the
13 issued license.

14 Q. It shall be unlawful to own or manage a marijuana establishment in which another
15 person cultivates, produces, distributes, or possesses marijuana, in violation of this chapter
16 or any other applicable law.

17 R. It shall be unlawful to operate or possess a marijuana establishment in violation of
18 this chapter, any ordinance of the city or any state law or regulation.

19
20 **6.70.250. – Disciplinary actions, sanctions, and civil penalties**

21 A. A violation of any of the provisions of this chapter, other applicable provisions of
22 this code, any applicable state law, or any of the rules or regulations adopted pursuant
23 thereto related to the cultivation, processing, manufacture, storage, sale, distribution,

1 testing or consumption of any form of marijuana, or any violation of any terms and
2 conditions of a license issued by the authority pursuant to this chapter, may be grounds for
3 additional terms and conditions being placed upon a license, for the denial of an application
4 to renew a license, or for the suspension or revocation of a license.

5 B. If the authority has probable cause to believe that a licensee has violated any
6 provision of this chapter or engaged in conduct which imposes an undue risk to the public
7 health, safety, or welfare, the authority may enter an order for the summary suspension of
8 such license, pending further investigation and hearing. No summary suspension shall be
9 for a period exceeding 60 days.

10 C. The hearing officer may, after notice and hearing, impose a civil penalty, or suspend
11 or revoke any license if the hearing officer finds that:

12 1. The licensee has failed to pay all required fines, costs and fees;

13 2. The licensee has failed to file tax returns when due as required by the city
14 code, or the licensee is overdue on his or her payment to the city of taxes, fines, interest,
15 or penalties assessed against or imposed upon such licensee in relation to the licensed
16 business;

17 3. The licensee has made any false statement in the license or renewal
18 application;

19 4. The licensee has failed to comply with his or her duty under section
20 6.70.150 to supplement the license application;

21 5. The licensee has failed to file any reports, notifications, or furnish any
22 information as required by the provisions of this code, state law, or any rule or regulation
23 adopted pursuant thereto relating to the operation of the marijuana establishment;

1 6. The licensee has refused to allow an inspection or intentionally obstructs,
2 impairs or hinders the inspection of the licensed premises as authorized by the city code or
3 state law, by using or threatening to use violence, force, or physical interference or
4 obstacle;

5 7. The licensee has failed to operate the marijuana establishment in accordance
6 with state law, this code, any applicable building, fire, health or zoning statute, code,
7 ordinance, or any rule and regulation adopted pursuant thereto, or of any special term and
8 condition placed upon a license by the authority;

9 8. The licensee has knowingly permitted or encouraged, or has knowingly and
10 unreasonably failed to prevent a public nuisance within the meaning of chapter 9.04 of this
11 code from occurring in or about the licensed premises;

12 9. The licensee has failed to comply with its security plan or other plans or
13 materials included in its application;

14 10. The licensee, or any of the agents or employees of the licensee, have
15 committed any unlawful act as described in this chapter or violated any ordinance of the
16 city or any state law on the premises or have permitted such a violation on the premises by
17 any other person;

18 11. The licensee engaged in any form of business or commerce in the city
19 involving the cultivation, processing, manufacturing, storage, sale, distribution, testing, or
20 consumption of any form of marijuana other than the privileges granted under their license;

21 12. The licensee has materially or substantially changed, altered, or modified
22 the licensed premises, or use of the licensed premises, without obtaining prior approval to
23 make such changes, alterations, or modifications from the authority;

1 13. The licensee has failed to maintain a valid state issued license; or

2 14. The odor of marijuana is perceptible to an ordinary person at the exterior of
3 the building at the licensed premises or is perceptible within any space adjoining the
4 licensed premises.

5 D. The authority, in its sole discretion, may permit the licensee to pay a fine in lieu of
6 license suspension or in lieu of part of the duration of a license suspension. Any fine
7 imposed in lieu of a suspension by the authority shall not be less than \$500.00 and not more
8 than \$100,000.00.

9 E. Any suspension of a license shall not be for a period longer than six months.

10 F. The authority may impose the costs to conduct a public hearing upon a licensee
11 who has violated any of the provisions of this chapter. The costs to conduct such a public
12 hearing shall be established by the authority.

13 G. Payment of any fine or costs pursuant to this section shall be in the form of cash or
14 in the form of a certified check or cashier's check made payable to the city.

15 H. In connection with the suspension of a license, the authority may impose reasonable
16 conditions upon the license.

17 I. In deciding whether a license should be suspended or revoked in accordance with
18 this section, in deciding what conditions to impose in the event of a suspension, if any, and
19 in deciding whether to allow payment of a fine in lieu of license suspension, the authority
20 shall consider:

21 1. The nature and seriousness of the violation;

22 2. Corrective action, if any, taken by the licensee;

- 1 3. Prior violations, if any, at the licensed premises by the licensee, the recency
- 2 of such violations, and the effectiveness of any prior corrective action;
- 3 4. The likelihood of recurrence;
- 4 5. All circumstances surrounding the violation;
- 5 6. Whether the violation was willful, knowing, or reckless;
- 6 7. The length of time the license has been held by the licensee;
- 7 8. Previous sanctions, if any, imposed against the licensee; and
- 8 9. Any other factor making the situation with respect to the licensee or the
- 9 licensed premises unique or the violation of greater concern.

10 F. If the authority finds that the license should be suspended or revoked or a fine
11 imposed for all or part of a suspension, or conditions should be imposed upon the license,
12 the licensee shall be provided written notice of such fine, suspension, conditions imposed,
13 or revocation and the reasons therefor within 35 days following the date of the hearing.

14 G. If the authority suspends or revokes a license, imposes conditions, or imposes a fine
15 in lieu of all or part of a suspension, the licensee may appeal the fine, suspension or
16 revocation pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The
17 licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest
18 the fine or conditions imposed or the suspension or revocation of the license.

19 H. No fee previously paid by a licensee in connection with a license shall be refunded
20 if the licensee's license is suspended or revoked.

21 **6.70.260. – Criminal penalties**

22 Violation of any provision of this chapter or commission of any unlawful act described in
23 section 6.70.240 shall be punishable under the general penalty of this code as described in

1 section 10.02.020. Each and every day a violation of the provisions of this chapter is
2 committed, exists or continues shall be deemed a separate offense.

3 **6.70.270. – Other remedies**

4 The city is specifically authorized to seek an injunction, abatement, restitution or any other
5 remedy necessary to prevent, enjoin, abate, or remove any violation or unlawful act under
6 this chapter, and any remedies provided for herein shall be cumulative and not exclusive
7 and shall be in addition to any other remedies provided by law or in equity.

8 **6.70.280. – Rules and regulations**

9 A. The authority may make such reasonable rules and regulations as may be necessary
10 for the purpose of administering and enforcing the provisions of this chapter and any other
11 ordinances or laws relating to and affecting the licensing and operation of marijuana
12 establishments.

13 B. It shall be unlawful for any person to violate a rule or regulation adopted by the
14 authority pursuant to this section.

15 Section 3

16 The Council amends the Longmont Municipal Code by adding the following section:

17 **9.60.047. – Exception for licensed marijuana stores**

18 As an exception to the prohibitions provided in section 9.60.040 and 9.60.045, it shall not
19 be unlawful for any person to operate, cause to be operated, or permit to be operated a
20 marijuana store licensed by the city under the provisions of chapter 6.70 of this code, but
21 only to the extent that such operations are in full compliance with such chapter and any
22 conditions of the license.

1 Section 4

2 The Council amends section 10.36.110 of the Longmont Municipal Code, by adding
3 italicized material and deleting stricken material, to read as follows:

4 **10.36.110. - Possession or consumption prohibited.**

5 A. It is unlawful for a person over the age of 21 years to possess between one and two
6 ounces of marijuana. It is unlawful for a person under the age of 21 to possess two ounces or less
7 of marijuana. The court shall punish offenders by a fine of not more than \$100.00, plus applicable
8 court costs.

9 B. It is unlawful for a person of any age to openly and publicly consume two ounces or
10 less of marijuana. Unless section 1.12.020 precludes imprisonment, the court shall punish
11 offenders by a fine not less than \$100.00 plus applicable court costs, or by 15 days' imprisonment,
12 or both such fine and imprisonment.

13 C. As an exception to the prohibition in in subsection (A) on possession by a person over
14 the age of 21 years of between one and two ounces of marijuana, it shall not be unlawful for any
15 person to operate, cause to be operated, or permit to be operated a marijuana store licensed by
16 the city under the provisions of chapter 6.70 of this code, but only to the extent that such
17 operations are in full compliance with such chapter and any conditions of the license.

18 Section 5

19 The Council amends Table 15.04-A (“Table of Principal Uses by Zoning Districts”)
20 within section 15.04.010 of the Longmont Municipal Code by adding italicized material and
21 deleting stricken material, to read as follows:

Use Classification	Zoning District	Additional Regulations (Apply in All Districts Unless
-----------------------	-----------------	--

and Specific Principal Uses																	Otherwise Stated)					
	E1	E2	R1	R2	R3	MH	RL	ER	MD	MD- O	C	CR	CB	DB	LI	MIG	IP	AM	UR	RP		
...																						
B. Consumer Goods and Services. Businesses that offer items for sale to the general public or services to the general consumer. These are the retail and service outlets used by residents to keep their households operating.																						
...																						
<u>Marijuana stores licensed under chapter 6.70</u>																						<u>24</u>
...																						

1 Section 6

2 The Council amends section 15.04.020(B)(24) of the Longmont Municipal Code, by
3 adding italicized material and deleting stricken material, to read as follows:

4 24. Residential protection standards.

5 ...

6 b. *Limitations on uses. . . .*

7 ...

8 xx. Marijuana sales. No closer than 250 feet, excluding residential uses located in a
9 nonresidential zoning district.

10 ...

1 Section 7

2 To the extent only that they conflict with this ordinance, the Council repeals any conflicting
3 ordinances or parts of ordinances. The provisions of this ordinance are severable, and invalidity of
4 any part shall not affect the validity or effectiveness of the rest of this ordinance.

5
6
7 Introduced this _____ day of _____, 2017.

8
9 Passed and adopted this _____ day of _____, 2017.

10
11
12
13 _____
14 MAYOR

15 ATTEST:

16
17
18 _____
19 CITY CLERK

20
21 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
22 7:00 P.M. ON THE _____ DAY OF _____, 2017, IN THE
23 LONGMONT COUNCIL CHAMBERS.

24
25 APPROVED AS TO FORM:

26
27
28 _____
29 ASSISTANT CITY ATTORNEY DATE

30
31
32 _____
33 PROOFREAD DATE

34
35 APPROVED AS TO FORM AND SUBSTANCE:

36
37
38 _____
39 ORIGINATING DEPARTMENT DATE

40
41 CA File: [Type City Attorney Matter Number or File Name, then press f11 to proceed]
42 [Delete this prompt and save this document with a new file name (in a different folder), not in \MASTER DOCUMENTS]